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Presidential Documents

Title 3—

The President

Proclamation 5701 of September 11, 1987

National Hispanic Heritage Week, 1987

By the President of the United States of America

A Proclamation

During National Hispanic Heritage Week, all Americans can recognize, honor, and celebrate the rich and diverse contributions Hispanic Americans have made to our land ever since the exploration and settlement of the Western Hemisphere.

People of Hispanic culture have been present in the Americas from early times and have exerted much influence on the development of the United States. Hispanic explorers helped open the New World, discover its resources, and found its new nations, including parts of our own. Explorers such as Coronado in the 16th century traveled throughout the present-day United States, and Spaniards settled in St. Augustine, Florida, long before Jamestown was founded. The founding of missions and presidios in California was simultaneous with the American Revolution; and when the new United States had won, thanks in part to Spanish help, Te Deum masses of thanksgiving were celebrated in those missions, just as throughout all Spanish colonies. In the 19th century, the vision of liberty inspired countless brave Latin Americans to fight for independence for their countries. Today, Hispanics carry on the dream of freedom throughout the hemisphere, and democracy is enjoying a broad resurgence.

The Spanish names bestowed on so many of our cities, towns, States, rivers, mountains, and lakes—Los Angeles, Sacramento, Guadalupe, Colorado, Sierra Nevada, for instance—remind us daily that the values of Hispanic Americans, such as devotion to church, family, work, and community, helped settle our frontiers and build our future. Hispanic Americans have served and sacrificed time and again in the Armed Forces to keep our Nation free. Hispanic cultural heritage is a constant source of enrichment for our country, and Hispanic Americans are a source of close ties to the nations of Central and South America.

America's Hispanic heritage is an indelible and invaluable part of our history and a vital part of the creative forces that are shaping our future.

In recognition of the outstanding achievements of Hispanic Americans, the Congress, by Joint Resolution approved September 17, 1968 (Public Law 90–498), has authorized and requested the President to issue annually a proclamation designating the week including September 15 and 16 as National Hispanic Heritage Week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning September 13, 1987, as National Hispanic Heritage Week, in recognition of the Hispanic individuals, families, and communities who enrich our national life. I call upon the people of the United States, especially educators, to observe this week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this 11th day of Sept., in the year of our Lord nineteen hundred and eighty-seven, and of the Independence of the United States of America the two hundred and twelfth.

Ronald Reagan

[FR Doc. 87-21390
Filed 9-11-87; 4:34 pm]
Billing code 3195-01-M

Editor's note: For the President's remarks on signing Proclamation 5701, see the *Weekly Compilation of Presidential Documents* (vol. 23, no. 36).

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1004

Milk in the Middle Atlantic Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action suspends for the months of September 1987 through February 1988 certain provisions relating to how much milk not needed for fluid (bottling) use may be moved directly from farms to manufacturing plants and still be priced under the Middle Atlantic milk order. The action was requested by a cooperative association to insure the efficient disposition of milk not needed for fluid use and still maintain producer status under the order for dairy farmers regularly associated with the market. A substantial change in the method of disposing much of the market's reserve milk supplies prompted the request by the cooperative association.

EFFECTIVE DATE: September 15, 1987.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 447-7311.

SUPPLEMENTARY INFORMATION:

Prior Document in This Proceeding

Notice of Proposed Suspension

Issued August 17, 1987, published August 20, 1987 (52 FR 31408).

The Regulatory Flexibility Act (5 U.S.C. 601 through 612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers regularly associated with the market will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under the criteria contained therein.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 through 674), and of the order regulating the handling of milk in the Middle Atlantic marketing area.

Notice of proposed rulemaking was published in the **Federal Register** on August 20, 1987 (52 FR 31408) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon. No comments opposing the proposed action were received.

After consideration of all relevant material, including the proposal in the notice, the comments received, and other available information, it is hereby found and determined that for the months of September 1987 through February 1988 the following provisions of the order do not tend to effectuate the declared policy of the Act:

In § 1004.12, all of paragraph (d) except the introductory text.

Statement of Consideration

This action makes inoperative for September 1987 through February 1988 the provisions of the Middle Atlantic Federal milk order that limit the amount of milk that may be diverted from farms to nonpool plants and still retain producer milk status. The order now provides that during any month of September through February a handler may divert not more than 18 days' production of each producer or in the alternative all diversions of a proprietary handler and a cooperative association handler may not exceed 40 and 50 percent, respectively, of the volume of such handler's total producer receipts.

The suspension was requested by Atlantic Dairy Cooperative (ADC), which handles a substantial part of the market's reserve milk supplies. The basis for the request is that current production and marketing conditions have caused the cooperative to change the manner in which much of its reserve milk supplies are handled. Normally, a substantial portion of ADC's reserve milk supplies are delivered to reserve pool plants, including the proponent cooperative's reserve pool processing plant at Mt. Holly Springs. However, because of tighter supply-demand conditions this year over last year, ADC expects that the proportion of deliveries to nonpool plants will significantly increase while deliveries to reserve pool processing plants will markedly decline. Consequently, beginning in September 1987, ADC projects that deliveries to nonpool plants, which are received on a diverted basis, are expected to exceed the quantity of milk that could be diverted to nonpool plants under the present diversion limits and still maintain producer status for all such milk. Proponent cooperative stated that without the suspension it would be forced to make uneconomic shipments of a substantial part of such deliveries of its member milk to nonpool plants that has been regularly associated with the market to qualify it for pooling beginning in September.

The changed marketing situation cited by ADC coupled with an analysis of market data indicates that the order's limitation on diversions to nonpool plants during the period in question will not enable the cooperative to efficiently handle milk that is not needed for fluid uses where nonpool plants are the principal outlets for reserve milk. Without suspension of the requested provisions, and to insure that some producers of ADC who have been regularly supplying the Middle Atlantic market continue to share in the higher-valued fluid sales, the proponent cooperative would be forced to receive part of such producer member milk first at its pool manufacturing plant and then in turn, transfer it to a nonpool plant. Such extra handling tends to affect milk quality and is an uneconomic means of pooling the proponent cooperative's reserve milk supplies. Suspending the diversion limits will tend to promote

handling efficiencies and accommodate the changed method in the disposition of much of ADC's reserve milk supplies. Thus, the suspension action is necessary to promote orderly marketing conditions.

Maryland and Virginia Milk Producers Association, Inc., and Eastern Milk Producers indicate support for the suspension. No opposition to the action was received.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) The suspension is necessary to reflect current marketing conditions and to assure orderly marketing conditions in the marketing area in that uneconomic movements of milk would be made solely for the purpose of pooling the milk of producers who have regularly been associated with the Middle Atlantic market;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension. No comments were filed in opposition to this action.

Therefore, good cause exists for making this order effective upon publication in the **Federal Register.**

List of Subjects in 7 CFR Part 1004

Milk marketing orders, Milk, Dairy products.

It is therefore ordered, That the following provisions in § 1004.12 of the Middle Atlantic order are hereby suspended for September 1987 through February 1988.

PART 1004—MILK IN THE MIDDLE ATLANTIC MARKETING AREA

1. The authority citation for 7 CFR Part 1004 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

§ 1004.12 [Amended]

2. In § 1004.12, all of paragraph (d) except the introductory text is suspended during the months of September 1987 through February 1988.

Signed at Washington, DC, on September 9, 1987.

Kenneth A. Gilles,

Assistant Secretary for Marketing and Inspection Services.

[FR Doc. 87–21159 Filed 9–14–87; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 245

[INS No.: 1002–87]

Adjustment of Status to That of Persons Admitted for Permanent Residence

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This regulation change will require all future applicants for permanent residence under the Cuban Adjustment Act to submit, with their application, local police clearances from every jurisdiction in the United States where they have lived for six months or more. This action is necessary because it is not feasible to conduct these police clearances in an automated fashion in six states as is currently done, due to the significant decrease in the number of applications submitted to the Service. This rule will streamline the Service's procedures in future adjustment of status applications under the Cuban Adjustment Act.

EFFECTIVE DATE: September 15, 1987.

FOR FURTHER INFORMATION CONTACT: Joseph D. Cuddihy, Senior Immigration Examiner, Immigration & Naturalization Service, 425 Eye Street NW., Washington, DC 20536; Telephone: (202) 633–3320.

SUPPLEMENTARY INFORMATION: On April 10, 1987, the Service published a proposed rule at 52 **Federal Register** 11659, requesting that comments be received by May 10, 1987. There were no comments submitted to the Service. This final rule is therefore being implemented as proposed.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that this rule will not have a significant impact on a substantial number of small entities.

This order is not a major rule within the definition of section 1(b) of E.O. 12291.

The information collection requirement contained in this regulation will be submitted to OMB under the Paperwork Reduction Act.

List of Subjects in 8 CFR Part 245

Aliens, Immigration and Nationality Act, Passports, Visas.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 245—ADJUSTMENT OF STATUS TO THAT OF PERSONS ADMITTED FOR PERMANENT RESIDENCE

1. The authority citation for Part 245 is revised read:

Authority: 8 U.S.C. 1101, 1103, 1151, 1153, 1154, 1182, 1255, 1257.

2. In § 245.2, paragraph (a)(3)(iv) is revised to read as follows:

§ 245.2 Application.

(a) * * *

(3) * * *

(iv) *Under the Act of November 2, 1966.* An application for adjustment of status is made on Form I–485A. There is no fee required in the application for the benefits of this Act. The application must be accompanied by Form I–643, Health and Human Services Statistical Data Sheet. The application must include a clearance from the local police jurisdiction for any area in the United States when the applicant has lived for six months or more since his or her 14th birthday.

* * * * *

Dated: May 20, 1987.

Richard E. Norton,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 87–21120 Filed 9–14–87; 8:45 am]

BILLING CODE 4410–10–M

FEDERAL TRADE COMMISSION

16 CFR Part 5

Standards of Conduct; Miscellaneous Revisions and Corrections

AGENCY: Federal Trade Commission.

ACTION: Final rules.

SUMMARY: The Federal Trade Commission (FTC) has revised its Rules of Practice to update and clarify the Standards of Conduct for agency employees and to make technical corrections.

EFFECTIVE DATE: These amendments are effective September 15, 1987.

FOR FURTHER INFORMATION CONTACT: Christian S. White, Assistant General Counsel, Federal Trade Commission, 6th Street & Pennsylvania Avenue NW., Washington, DC 20580, (202) 326–2476.

SUPPLEMENTARY INFORMATION: Following an internal review of its Standards of Conduct for agency employees, the Commission has adopted several clarifying amendments. These amendments are technical in nature and clarify existing standards so that the FTC staff and the public will understand

more clearly what the applicable ethical standards require of Commission members and employees. These amendments have been submitted to and approved by the Office of Government Ethics.

The provisions of Part 5 of the FTC Rules of Practice containing Standards of Conduct for agency employees are amended as follows:

(1) Section 5.1 is amended to refer to both the public and confidential systems under which certain agency employees are required to make financial disclosures.

(2) Section 5.9 is amended to permit the distribution of a comprehensive summary of the Standards of Conduct to agency employees as an alternative to providing a copy of the regulation. Most professional FTC employees receive and regularly use the Commission's Rules of Practice, which include the Standards of Conduct.

(3) Section 5.11(b)(1) is amended to permit agency employees to accept gifts from individuals where circumstances make it clear that personal or family relationships rather than the business of the persons concerned are the motivating factor for the gift. *See*, 5 CFR 735.202(b)(1).

(4) Section 5.11 is amended to permit participants in educational programs to accept gifts that are of nominal intrinsic value, are given to all participants in such programs, and are in the nature of a remembrance traditional to the offering institution.

(5) Section 5.11(d) is amended to provide a brief explanation of the Foreign Gifts and Decorations Act, 5 U.S.C. 7342.

(6) Section 5.11(e) is amended to state the circumstances under which FTC employees are permitted by the Government Employees Training Act, 5 U.S.C. 4111, to accept reimbursements for travel and related expenses.

(7) Section 5.12(c) is amended to delegate to the General Counsel responsibility for authorizing the disclosure of non-public information in teaching, lecturing, or writing undertaken by Commission officials.

(8) Section 5.12(f) is amended to require that FTC employees requesting permission to engage in outside employment certify that no government property, resources, or facilities not available to the general public will be used in such employment.

(9) Section 5.17 is revised to clarify the Commission's position on employee indebtedness.

(10) Section 5.42 is amended to correct a technical error in the reference to another section of the Standards of Conduct.

Regulatory Flexibility Act

No regulatory flexibility analysis (or certification that one is not required) is necessary because these rules are procedural, and thus not within the definition of "rule" for purposes of Chapter 6, Title 5, U.S.C.

List of Subjects in 16 CFR Part 5

Administrative practice and procedure, Standards of conduct, Conflict of interest.

Text of Amendment

Accordingly, the Federal Trade Commission amends Title 16, Part 5, of the Code of Regulations as follows:

PART 5—STANDARDS OF CONDUCT

1. The authority for Part 5 continues to read as follows:

Authority: E.O. 11222 of May 8, 1965, 30 FR 6469, 3 CFR, 1965 Supp., 5 CFR 735.104, unless otherwise noted.

2. Section 5.1 is revised to read as follows:

§ 5.1 Purpose.

This part establishes standards of ethical conduct for employees and special Government employees in the Federal Trade Commission. It sets forth regulations pertaining to financial interests; acceptance of gifts, entertainment, and favors; outside employment; use of Government information; and teaching, lecturing, and writing. This part also contains instructions for the filing of public financial disclosure reports under the Ethics in Government Act by members and certain employees and the filing of confidential statements of employment and financial interests by certain employees and special Government employees.

3. Section 5.9 is revised to read as follows:

§ 5.9 Publication of regulations.

Each employee and special Government employee shall be furnished a copy of the regulations in this part (or a comprehensive summary thereof) within 90 days after their approval by the Office of Personnel Management. Each new employee and special Government employee shall be furnished a copy of summary at the time of his entrance on duty. At least once each year, an appropriate notice shall be issued by the General Counsel to bring the provisions of the regulations in this part to the attention of each employee and special Government employee.

4. Section 5.11 is amended by revising paragraphs (b) introductory text and (b)(1), (d) and (e) and adding paragraph (b)(5) to read as follows:

§ 5.11 Gifts, entertainment, and favors.

* * * * *

(b) As exceptions to paragraph (a) of this section, an employee shall be permitted to:

(1) Accept gifts, gratuities, favors, entertainment, loans, or other things of monetary value from members of his intermediate family (*i.e.*, parents, children, or spouse) or from a friend when the circumstances make it clear that it is the personal or family relationship rather than the business of the persons concerned which is the motivating factor;

* * * * *

(5) Accept gifts given for participation in an education program when they are of nominal intrinsic value, are provided to all participants in the program, and are in the nature of a remembrance traditional to the particular offering institution.

* * * * *

(d) An employee shall not accept gift, present, decoration, or other thing from a foreign government unless authorized by Congress as provided by the Constitution and in 5 U.S.C. 7342. Congress has authorized federal employees to receive certain gifts from a foreign government where those gifts are of "minimal value" as defined by regulations issued by the General Service Administration.

(e) Employees may not accept reimbursement for travel or expenses incident to travel on official business from any source other than the Federal Government, except that employees may obtain agency approval to accept such reimbursement from organizations that are exempt from taxation under the Internal Revenue Code, 26 U.S.C. 501(c)(3), for expenses incident to training or the attendance at meetings in accordance with 5 U.S.C. 4111 and 5 CFR 410.702.

5. Section 5.12 is amended by revising paragraphs (c) and adding paragraph (f)(5) to read as follows:

§ 5.12 Outside employment and other activity.

* * * * *

(c) Employees are encouraged to engage in teaching, lecturing, and writing that is not prohibited by law, the Executive order, or this part. However, an employee shall not, either for or without compensation, engage in teaching, lecturing, or writing, including teaching, lecturing, or writing for the purpose of the special preparation of a person or class of persons for an

examination of the Office of Personnel Management or Board of Examiners for the Foreign Service, that is dependent on information obtained as a result of his Government employment, except when that information has been made available to the general public or will be made available on request, or when the General Counsel gives written authorization for the use of nonpublic information on the basis that the use is in the public interest. In addition, an officer or employee who is a Presidential appointee covered by section 401(a) of the Executive order shall not receive compensation or anything of monetary value for any consultation, lecture, discussion, writing, or appearance the subject matter of which is devoted substantially to the responsibilities, programs, or operations of the Commission, or which draws substantially on official data or ideas which have not become part of the body of public information.

* * * * *

(f) * * *

(5) Employee's certification that no Government property, resources, or facilities not available to the general public will be used in connection with the outside employment.

6. Section 5.17 is revised to read as follows:

§ 5.17 Employee indebtedness.

The Federal Trade Commission considers the indebtedness of its employees to be essentially a matter of their own concern. The Commission will not be placed in the position of acting as a collection agency or of determining the validity or amount of contested debts. Nevertheless, failure on the part of an employee without good reason and in a proper and timely manner to honor debts acknowledged by the employee to be valid or reduced to judgment by a court or to make or to adhere to satisfactory arrangements for the settlement thereof, may be cause for disciplinary action. Each employee is expected to meet his responsibilities for payment of Federal, State, and local taxes.

7. Section 5.42(a) is revised to read as follows:

§ 5.42 Reviewing statements of special Government employees.

(a) All statements submitted in accordance with § 5.41 shall be reviewed initially by the bureau director or office head who has supervisory authority over the special Government employee. Following this review, all statements shall be returned to the General Counsel for safekeeping.

* * * * *

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 87-21168 Filed 9-14-87; 8:45 am]

BILLING CODE 6750-01-M

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16 CFR Part 13

[Docket No. C-2427]

Foremost-McKesson, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying order.

SUMMARY: The Federal Trade Commission has modified a 1973 consent order (38 FR 22468) by setting aside the second paragraph, of the consent order, prohibiting material inducements to customers to attend respondent's trade shows.

DATES: Consent Order issued July 26, 1973. Modified Order issued April 16, 1987.

FOR FURTHER INFORMATION CONTACT: FTC/S-2115, P. Abbott McCartney, Washington, DC 20580. (202) 326-2687.

SUPPLEMENTARY INFORMATION: In the Matter of Foremost-McKesson, Inc. The prohibited trade practices and/or corrective actions, as set forth at 38 FR 22468, remain unchanged.

List of Subjects in 16 CFR Part 13

Druggists' sundries, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Order Reopening the Proceeding and Modifying Cease And Desist Order

Commissioners: Daniel Oliver, Chairman, Patricia P. Bailey, Terry Calvani, Mary L. Azcuenaga, Andrew J. Strenio, Jr.

Respondent McKesson Corporation ("McKesson") [1] filed a Petition to Reopen Proceeding and Set Aside Order ("Petition") on November 26, 1986, pursuant to Subsection 5(b) of the FTC Act, 15 U.S.C. 45(b). The Commission's order to cease and desist relates to McKesson's practices surrounding trade shows that it conducts for its retail drug store customers. McKesson is the largest wholesale distributor of drugs and druggists' sundries in the country.

McKesson requests the Commission to reopen the proceeding to set aside the two principal parts of the order on the basis of changed conditions of law and fact and the public interest. The Commission issued its order in this matter on July 26, 1973, with the consent of McKesson. 83 F.T.C. 228. The complaint and order were based upon alleged violations of section 5 of the FTC Act. 15 U.S.C. 45. The first ordering paragraph prohibits McKesson from inducing promotional allowances and services from its suppliers in connection with trade shows when McKesson knows or has reason to know that such allowances and services are not available to its competititors on proportionally equal terms. The second part prohibits McKesson from providing material inducements to customers to attend McKesson's trade shows when the receipt is dependent on the volume of the customer's purchases.

The Commission filed on January 10, 1979, a civil penalty action against respondent for violations or the order in this matter in *FTC* v. *Foremost-McKesson, Inc.*, No. 79 Civ. 0162 (PNL) (S.D.N.Y.). The civil penalty action focused upon national trade shows held by McKesson in 1976, 1977, and 1978 and attended by McKesson's retail customers. A Final Judgment and Permanent Injunction was entered on November 23, 1983, with the consent of the parties. Under the judgment, McKesson paid civil penalties and was prohibited for ten years from inducing any promotional allowances that were not available to its competitors on proportionally equal terms. This paragraph in the court's injunction parallels the prohibition in the Commission's order against inducing disproportionate promotional allowances.

A. Standard for Reopening a Final Order of the Commission

Subsection 5(b) of the Federal Trade Commission Act provides that the Commission shall reopen an order to consider whether it should be modified if the respondent "makes a satisfactory showing that changed conditions of law or fact" so require. A satisfactory showing sufficient to require reopening is made when a request to reopen identifies significant changes in circumstances and shows that the changes eliminate the need for the order or make continued application of the order inequitable or harmful to competition. The burden is on the petitioner to make the satisfactory showing of changed conditions required by the statute. This burden is not a light one in view of the public interest in repose and the finality of the Commission's orders. *See Federated Department Stores, Inc.* v. *Moitie*, 425 U.S. 394 (1981) (strong public interest

[1] Respondent was formerly Foremost-McKesson, Inc. It changed its name to McKesson Corporation in 1983.

considerations support repose and finality). If the Commission determines that the petitioner has satisfied this requirement, the Commission must reopen the order to determine whether modification is required and, if so, the nature and extent of the modification. Subsection 5(b) does not require that the Commission modify any order. S. Rep. No. 96–500, 96th Cong., 2d Sess. 10 (1979). *See* Order Modifying Consent Order Issued September 28, 1977, in *Union Carbide Corp.*, Docket No. C–2902 on November 14, 1986.

Subsection 5(b) also provides that the Commission may reopen and modify an order when, although changed circumstances would not require reopening, the Commission determines that the public interest so requires. To obtain review on this ground, the respondent must demonstrate as a threshold matter some affirmative need to modify the order. If respondent satisfies this threshold requirement, the Commission will balance the reasons favoring the modification requested against any reasons not to make the modification. *See* Order Modifying Consent Order Issued September 28, 1977, in *Union Carbide Corp.*, Docket No. C–2902 on November 14, 1986.

B. The Prohibition Against the Knowing Inducement of Discriminatory Promotional Allowances and Services

Respondent first seeks to have the prohibition against the knowing inducement of discriminatory promotional allowances and services set aside because the Commission's recent decision in *General Motors Corp.*, 103 F.T.C. 641 (1984) ("*G.M.*"), is a changed condition of law. In *G.M.*, the Commission restricted use of Section 5 of the FTC Act to expand the "spirit" of *per se* liability of subsection 2(d) of the Robinson-Patman Act, 15 U.S.C. 13(d), to conduct not otherwise covered by the "letter" of the Robinson-Patman Act. The Commission chose to limit the "spirit" theory to conduct that was actually anticompetitive. According to McKesson, the first paragraph in its order does not prohibit conduct that is either anticompetitive or unlawful under the Robinson-Patman Act.

The Commission has long prohibited, pursuant to section 5 of the FTC Act, a buyer from inducing promotional allowances and services that it knows or has reason to know are not available to its competitors on proportionally equal terms. *See e.g., Grand Union Co. v. FTC*, 300 F.2d 92, 99 (2d Cir. 1962). This prohibition is also embodied in the Commission's Guides for Advertising Allowances and Other Merchandising Payments and Services, 16 CFR 240.14. The prohibition arises from subsections 2(d) and 2(e) of the Robinson-Patman Act, 15 U.S.C. 13(d) and 13(e), which prohibit sellers from providing promotional allowances and services to any firm in connection with the resale of that supplier's products unless such allowances or services are available to the firm's competitors on proportionally equal terms. Discriminatory promotional allowances and services are *per se* unlawful, that is, unlawful without a demonstration of an injury to competition. *See FTC v. Simplicity Pattern Co.*, 360 U.S. 55 (1959).

Although the Robinson-Patman Act does not itself prohibit the inducement of such allowances and services, the Commission has employed section 5 of the FTC Act to prohibit such buyer inducements. The omission of buyer liability under the Robinson-Patman Act was deemed by the court of appeals in *Grand Union* to be "more 'inadvertent' than 'studious.'" 300 F.2d at 96 (footnote omitted). The court observed that "[s]ince * * * there can be no unlawful preference made by a seller unless it was received by a buyer, it is clear that Congress did not intend to sanction buyers to continue to engage in the unlawful activity." *Id.* at 97 (footnote omitted).

The Commission's decision in *G.M.* did not change this precedent surrounding buyer liability for knowingly inducing discriminatory promotional allowances nor the Commission's underlying enforcement policy. In *G.M.*, the Commission declined to extend the *per se* liability of subsections 2(d) and 2(e) of the Robinson-Patman Act to a transaction not otherwise prohibited by those subsections. The concept of buyer liability under section 5 of the FTC Act, however, as explained in *Grand Union*, only imposes liability upon a party to a transaction that is already unlawful under those subsections of the Robinson-Patman Act. That is, *Grand Union* stands for the proposition that both parties to an unlawful transaction may be held liable. In *G.M.*, the Commission merely declined to broaden the class of unlawful transactions.

The Commission also acknowledged the continued applicability of the *Grand Union* line of cases in *G.M.* 103 F.T.C. at 700–01. In the accompanying footnote, the Commission noted that proof of injury is not required in a section 5 buyer inducement case. *Id.* at 701 n.3.

In view of the Commission's position respecting buyer inducements in *G.M.*, McKesson has not established a changed condition of law that requires reopening the order.

Apparently as a changed condition of fact, McKesson also asserts that this first prohibition of the order is no longer needed because the prohibition is now embodied in a court decree as a result of the civil penalty action. McKesson contends that the Commission is, thus, well-equipped to proceed against future conduct. However, the fact that a Federal court has entered a decree to enforce a portion of the Commission's own order is not the type of changed condition of fact that requires reopening the order. Rather, the previous alleged violations leading to the entry of the decree suggest that continuation of the order is appropriate to ensure that McKesson continues to conform its conduct to the law.

McKesson also urges the Commission in the public interest to set aside the prohibition against inducing discriminatory promotional allowances and services because the prohibition places it at a competitive disadvantage. According to McKesson, none of its competitors are subject to such prohibitions, save one. *See Bergen Brunswig Corp.*, Docket No. C–2463, 83 F.T.C. 687 (1973). However, this order provision only prohibits McKesson from violating the law. The order provision does not prohibit any conduct that is currently lawful and McKesson has not demonstrated any other injury flowing from the prohibition. McKesson has not established that it is placed at a competitive disadvantage by an order that requires it to obey the law. *See* Order Modifying Cease and Desist Order Issued July 19, 1951, in *Atlas Supply Co.*, Docket No. 5794, 106 F.T.C. 334, 335 (1985).

In view of this, and because of the continued viability of the *Grand Union* line of cases, the Commission does not believe that setting aside this part of the order would be in the public interest.

C. The Prohibition Against Providing Customers Material Inducements To Attend Trade Shows

McKesson also requests the Commission to set aside the prohibition against providing material inducements to customers to attend its trade shows when the amount is dependent upon the customers' volume of purchases. McKesson claims that the paragraph prohibits competitive conduct and, therefore, is contrary to the public interest.

This provision no longer appears to be necessary. Setting aside this paragraph may be warranted because the prohibited conduct has never been *per se* unlawful under Section 5 and is a competitively reasonable method for a

wholesale distributor to employ in attracting retailers to attend a trade show. Additionally, there is evidence that the prohibition against material inducements may place McKesson at a competitive disadvantage because its competitors are not bound by a similar prohibition. Of course, subsection 2(a) of the Robinson-Patman Act, 15 U.S.C. 13(a), prohibits any price discrimination that injures competition among wholesale distributors.

The Commission has denied that part of McKesson's petition that seeks to reopen on the basis of changed conditions. McKesson has failed to make any showing of changed conditions of law or fact of the type to require such reopening. Likewise, the public interest does not warrant any modification to the prohibition of the knowing inducement of promotional allowances because the paragraph only requires compliance with established case law. However, in the public interest, the Commission has determined to reopen the order and set aside the second paragraph prohibiting material inducements to customers to attend respondent's trade shows.

Accordingly, it is hereby ordered that the proceeding be, and it hereby is, reopened and the following paragraph be set aside as of the date of this order:

It is further ordered that respondent shall cease and desist from offering or providing to its customers, directly or indirectly, any material inducement, monetary or otherwise, to attend its trade shows whenever such customers' receipt of the inducement depends upon their purchases or volume of purchases of merchandise from respondent.

By direction of the Commission. Chairman Oliver concurred in part and dissented in part. Commissioner Azcuenaga was recused.

Emily H. Rock,

Secretary.

Separate Statement of Chairman Oliver in Foremost-McKesson, Inc.; C. 2427

Foremost-McKesson (McKesson), a drug and sundries wholesaler, has petitioned the Commission to vacate a 1973 order that regulates McKesson's conduct in administering druggists' sundries trade shows. The order regulates both McKesson's acceptance of promotional fees, services, and facilities from suppliers who set up booths at the shows, and McKesson's reimbursement of travel and other expenses to retailers who attend the shows.

The Commission concludes, and I agree, that the order should be vacated to the extent it regulates McKesson's reimbursement of retailer travel and other expenses, because continued regulation is not in the public interest. However, the Commission has chosen not to vacate the order's provisions regulating McKesson's acceptance of promotional fees, services, and facilities from suppliers of druggists' sundries. I strongly dissent from this portion of the Commission's decision.

The order's provisions that the Commission refuses to vacate prohibit McKesson from receiving promotional services or facilities from suppliers, or from receiving compensation from suppliers for providing promotional services or facilities, if McKesson knows or has reason to know that similar allowances and services are not available to its competitors on proportionally equal terms. These restrictions are the "buyer side" analogs of Robinson-Patman Act subsections 2(d) and 2(e), which prohibit sellers from offering nonproportional promotional allowances and services to buyers.

As is well know, there is little economic justification for regulating either the offers of services and allowances by sellers (as in subsections 2(d) and 2(e)), or the inducements for services and allowances by buyers (as in the present matter), when neither sellers nor buyers possess substantial market power. Under competitive conditions, sellers face incentives sufficient to ensure that no buyer will face systematic discrimination, or "proportionally unequal" treatment, in any meaningful sense.

Subsections 2(d) and 2(e) of the Robinson-Patman Act would not be quite as troublesome if they incorporated a competitive injury standard requirement.[1] Unfortunately, they do not. As a result, the subsections often increase the costs of doing business, and ultimately force consumers to pay higher prices for goods and services, by making illegal *per se* practices that, in most instances, pose no threat to competition. Even more unfortunately, the Commission has in the past (in the *Grand Union* line of cases) compounded that anti-consumer effects of subsections 2(d) and 2(e) (which regulate conduct of sellers) by using section 5 to reach an even broader class of cases (conduct of buyers), making it *per se* unlawful for a buyer to induce, or receive allowances and services with knowledge that competing buyers were treated nonproportionally.[2]

The Commission recently provided a persuasive basis for overturning the use of section 5 to extend the scope of subsections 2(d) and 2(e). In its decision in *General Motors Corp.* ("GM"), the Commission determined that activities not prohibited by the Sherman and Clayton acts should be prohibited under section 5 only if (1) they have anticompetitive effects very similar to the effects of conduct barred by the pro-competitive portions of those Acts; and (2) if their prohibition is not inconsistent with any other legislative goal reflected in the pro-competitive portions of those Acts.[3]

Thus, the Commission should no longer use section 5 to extend the Robinson-Patman Act, if the Commission does not consider the Act itself to be pro-competitive. And the Commission clearly does not view the Robinson-Patman Act as pro-competitive; it has characterized the Act as a "protectionist non-efficiency oriented" statute whose objectives conflict rather than coincide with the protection of competition.[4] This condemnation applies most strongly to subsections 2(d) and 2(e) because they do not require any demonstration of competitive injury.

Moreover, in the present matter, there is no evidence or analysis to indicate an exercise of market power, and hence no evidence of an ability to discriminate. Therefore the prohibitions imposed by the order on McKession as likely only to inhibit McKession's ability to compete. Clearly, this is inconsistent with the pro-competitive purposes of the Sherman and Clayton Acts.

The Commission was created as an expert body capable of determining when a practice injures competition and when it does not. The Commission did not exercise that expertise in the *Grand Union* line of cases. Instead, it simply extended an inappropriate standard of illegality to an additional class of businesses. The Commission has clear authority to overturn the *Grand Union* line of reasoning. I am unaware of any court decision ordering the Commission to hold as illegal *per se* an inducement

[1] Notably, the American Bar Association has recently suggested that subsections 2(d) and 2(e) be subjected to the competitive injury standard embodied in subsection 2(a). *ABA Favors Competitive Injury Test for Advertising and Promotional Allowances.* 52 Antitrust and Trade Reg. Rep. 357 (Feb. 26, 1987).

[2] *See, e.g. Grand Union Co. v. FTC.* 300 F.2d 92, 99 (2d Cir. 1962); *Giant Food Inc. v. FTC.* 307 F.2d 184, 186 (D.C. Cir. 1962), *cert. denied.* 372 U.S. 910 (1963).

[3] *General Motors Corp.*, 103 F.T.C. 641, 700–701 (1984); *accord. Ethyl Corp.*, 101 F.T.C. 425, 597 (1983), *rev'd on other grounds sub nom. DuPont v. FTC.* 729 F.2d 1288 (2d Cir. 1984).

[4] *General Motors Corp.*, 103 F.T.C. 641, 695–696 (1984), *citing Jefferson County Pharmaceutical Association v. Abbott Laboratories.* 460 U.S. 150, 171 n. 39 (1983).

by a buyer of what we cast as nonproportional services and allowances. The courts merely have indicated that the Commission may, in its discretion, take that step. But, as a general matter, the Commission has both the primary responsibility and wide discretion to interpret section 5. Moreover, the Supreme Court has concluded that "as a general rule the Robinson-Patman Act should be construed so as to insure its coherence with 'the broader antitrust policies that have been laid down by Congress.', " [5]

The Commission has elected not to modify the order's buyer inducement provisions. The Commission has thus, to the detriment of American consumers, foregone an opportunity to alter a precedent in an instance where it has the authority to do so. How can the Commission take this action and at the same time claim to serve the interest of American consumers? [6]

Accordingly, although I concur with so much of the Commission's decision as vacates the "seller side" provision, I dissent from the Commission's decision not to vacate the order in its entirety.

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16 CFR Part 455

Trade Regulation Rule; Sale of Used Motor Vehicles

AGENCY: Federal Trade Commission.

ACTION: Final rule; denial of petitions for exemption.

SUMMARY: The Commission has decided to deny petitions for exemption that were filed by sixty-five automobile leasing companies and an auto rental company. The petitions had requested exemptions for the petitioners from the Commission's Used Car Rule.

FOR FURTHER INFORMATION CONTACT: Joyce E. Plyler (202/326-3021), Attorney, or Matthew D. Gold (202/326-3019), Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

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I. Introduction

A. This Proceeding

Sixty-five automobile leasing companies petitioned the Commission, pursuant to section 18(g) of the FTC Act, 15 U.S.C. 57a(g), for exemptions from the Commission's Trade Regulation Rule Concerning the Sale of Used Motor Vehicles (the "Used Car Rule" or the "Rule"), 16 CFR Part 455.[1] The petitioners seek exemptions from the Rule for sales to consumers that result from: (a) The consignment of used vehicles to auctions; (b) the use of repossession lots; (c) the solicitation of bids from dealers; and (d) sales made by third-party sales agents (consignees). The petitions do not seek exemptions from the Rule for retail sales of used vehicles at used car lots. A separate petition for exemption from the Used Car Rule was filed by Alamo Rent-A-Car, Inc., of Fort Lauderdale, Florida ("Alamo").[2] Because the Alamo petition raises issues that are common to the petitions by NVLA members, all the petitions are addressed in this one proceeding.

On March 31, 1986, the Commission published a notice in the **Federal Register** (the "Notice"), requesting public comments on the issues raised by the petitions. 51 FR 10884 (1986). In the Notice, the Commission elicited public comment on the petitions generally and on specific questions that were set out in the text. *Id.* at 10885. A copy of the Notice was sent to each petitioner, as well as other parties that are on a special mailing list for the Used Car Rule. Twenty-nine parties submitted comments in response to the Notice, including several trade associations and two state government agencies. None of the petitioners, however, responded to the Notice. The comments are discussed in Sections III–IV, *infra.*

B. The Used Car Rule

The Used Car Rule is primarily intended to prevent and discourage oral misrepresentations and unfair omissions of material facts by used car dealers concerning warranty coverage. The Rule requires dealers to disclose warranty information by means of a window sticker, called the "Buyers Guide." The Rule also requires that certain disclosures be printed on the standard-format Buyers Guide, including: (a) A suggestion that consumers ask about having a pre-purchase inspection of the vehicle by their own mechanic; (b) a warning against relying on spoken promises; and (c) a list of fourteen major systems in an automobile and some of the problems that may occur in these systems.

Section 455.2(a) of the Rule requires dealers to prepare and display a Buyers Guide before offering to sell a used vehicle to a consumer. In § 455.1(d)(3), the term "dealer" is defined to include, with some exceptions, any person or business which sells or offers to sell to consumers six or more used vehicles in a twelve month period. The term "consumer" is defined in § 455.1(d)(4) of the Rule as "any person who is not a used vehicle dealer." Therefore, any dealer, including a leasing company, that offers a used vehicle for sale only to another dealer is not required to prepare and display a Buyers Guide for that vehicle.

Sales of used vehicles by auto leasing companies are often not covered by the Rule. First, many leasing companies sell used vehicles directly to dealers. As discussed above, these sales are not covered by the Rule. In addition, the Rule does not cover sales to the lessee,

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[5] *United States v. United States Gypsum Co.* 438 U.S. 458-459 (1978), *quoting Automatic Canteen Co. v. FTC*, 346 U.S. 61, 74 (1953).

[6] Hint: How can you square a circle?

[1] The petitions have been placed on the public record and are identified as Documents 102-2 through 102-62 in FTC File 215-54.

Counsel for the National Vehicle Leasing Association ("NVLA") informed the FTC's staff that NVLA drafted and distributed blank petitions to its members. Members of NVLA were invited to use this form as the basis for their own petitions. Each petition submitted recites identical facts and arguments to support the petition. A memorandum summarizing staff's conversion with NVLA's counsel has been placed on the public record and is identified as Document 103-2 in FTC File 215-54.

A typical petition consisting of the form circulated by NVLA, with the blanks filled in, was filed by Martin Cadillac Co. (d/b/a "DLC Leasing") of Los Angeles (the "Petition"). In this notice, the Commission will refer to specific sections of the NVLA form petition by citing to the Martin Cadillac Petition.

A letter was sent to each petitioner confirming receipt of its petition and informing petitioners that the pendency of a petition for exemption does not stay the application of the Used Car Rule as it pertains to the petitioner, pursuant to section 18(g)(3) of the FTC Act, 15 U.S.C. 57a(g)(3). Copies of these letters have been placed on the public record and are identified as Documents 103-3 through 103-6 in FTC File 215-54.

[2] The Alamo petiton has been placed on the public record and is identified as Document 102-1 in FTC File 215-54. A letter was sent by the FTC's staff to counsel for Alamo, confirming receipt of the petition and informing counsel that the pendency of a petition for exemption does not stay the application of the Used Car Rule as it pertains to Alamo, pursuant to section 18(g) (3) of the FTC Act, 15 U.S.C. 57a(g)(3). A copy of this letter has been placed on the public records and is identified as Document 103-1 in FTC File 215-54.

to an employee of the lessee, or to a buyer procured by the lessee.[3] These exclusions were intended "to remove from the scope of the Rule used car sales where the absence of a retail sales environment substantially diminishes the risk of deceptive practices * * * found to be characteristic of used car sales presentations.[4]

II. The Petitions

The petitioners assert that the exclusions set forth in § 455.1(d)(3) of the Rule fail to remove from the Rule's coverage their vehicles that, although ultimately sold to consumers, were not intended to be sold to consumers. The petitioners state that these sales are not made in a retail environment and should not come under the Rule. Such sales include those made through auctions and repossession lots, as well as those resulting from the solicitation of bids from dealers.[5] In addition, the Petition states that other vehicles are sold to consumers in a retail environment, through third-party sales agents. The petitioners, however, contend that these vehicles are disposed of in a manner which gives the petitioners "no means to ensure compliance" with the Rule.

Specifically, the petitioners seek exemption for four classes of transactions. Petitioners contend that when they consign vehicles to auctions to use repossession lots, they often do so with the intent or expectation that sales will be made to wholesale purchasers. Nevertheless, the petitioners note that some of these sales may fall within the scope of the Used Car Rule because a person who is not a dealer, and hence a consumer, may purchase a vehicle at some auctions or repossession lots. The petitioners also state that they seek to dispose of vehicles by soliciting bids from dealers, and that dealers sometimes inform personal friends about the availability of a particular vehicle.[6] The petitioners claim that these individuals, who are not dealers, may request the opportunity to submit a bid. The petitioners state that the Rule covers such transactions because the vehicle was offered to a consumer.

Finally, the petitioners seek exemptions for sales made through third party sales agents (consignees). The petitioners contend that they should not be held responsible for their agents' failure to comply with the Rule. According to the Petition, lessors will sometimes "seek the assistance of a third party sales agent in a different part of the country because a vehicle is located there at the time it comes off lease." The petitioners assert that in these circumstances, they have "no means to assure compliance" with the Rule. They argue that because third party sales agents are generally "dealers" under the Rule, and therefore are responsible for complying with the Rule's requirements, "there is no logical reason" to impose liability on the petitioners as well.

III. The Comments

As noted earlier, the Commission received comments from twenty-nine parties.[7] The comments generally opposed granting the petitions.

Of the fifteen comments which responded to the specific questions raised in the Notice, twelve were opposed to the petitions, and three favored granting the petitions. These fifteen comments will be discussed in detail in the following section of this notice, which will analyze the Petition.

As noted previously, none of the petitioners submitted comments in response to the Notice. Each petitioner was mailed a copy of the Notice, which included specific questions relating to the methods that the petitioners employ to dispose of previously leased vehicles.[8] However, the three trade associations that commented provide some information about the specific methods used to dispose of vehicles.[9]

Fourteen of the 29 comments made general statements about the issues raised by the Notice. These comments were virtually unanimous in their opposition to the petitions. One typical comment from a dealer noted that "leasing companies are in direct competition with franchised dealers who must conform with the law * * *. [They] already enjoy very favorable price concessions from our manufacturers * * *. There is no reason that they should be allowed to bypass another regulation." [10] Another dealer commented that "if you [grant the exemptions] you may as well drop the complete Trade Regulation Rule. Please do not be led astray by [the petitioners'] plea, the John Q. Public will pay the price if you do." [11] Another dealer contended that the Rule has helped the industry: "Let us not destroy what has been achieved by taking a step in the wrong direction. The public is beginning to recognize honesty in what has been considered a nefarious business, help keep it that way by rejecting this request." [12] Although these comments do not directly address the issues presented by the petitions, the thrust of these comments indicates that dealers generally oppose any exemptions to the Rule, particularly exemptions that would treat dealers and leasing companies in a different fashion.

IV. Analysis of the Petitions

In this section, each of the four types of transactions for which petitioners seek exemption is discussed separately. At the outset, however, the Commission considered an issue that was raised by the National Automobile Dealers Association ("NADA") and several other commenters: whether any exemptions granted to the petitioners should also apply to other dealers. NADA commented that:

> [a]ny exemptions limited solely to the petitioner leasing companies would be fundamentally unfair to other 'dealers' * * * and to the incidental 'consumer' purchaser who would face a confusing regulatory double standard for identical sales.[13]

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[3] The Statement of Basis and Purpose for the Used Car Rule explains that the definition of the term dealer "specifically excludes" not only "a lessor selling a used vehicle to the vehicle's lessee," but also a lessor selling a leased vehicle to "a buyer procured by the vehicle's lessee." 49 FR 45692, 45708 (1984).

[4] *Id.*

[5] Petition at 2.

[6] The Alamo petition claims that an exemption for all Alamo sales is warranted. Alamo's petition states that most of its previously leased vehicles are disposed of through private sales in which no consumer bids are solicited, although such bids are apparently accepted upon receipt.

[7] The comments have been placed on the public record and are identified as Documents 103–9 through 103–37 in FTC File 215–54.

The comments from the American Bankers Association, Doc. 103–36, and the New York Commissioner of Motor Vehicles, Doc. 103–37, were received after May 30, 1986, the deadline for submitting public comments to the Commission. While the Commission may refer to these comments in this notice, such references are for purposes of illustration only. The Commission's conclusions therefore are not based upon consideration of these two comments.

[8] Each petitioner was sent a copy of the Notice that was published in the **Federal Register**. However, the Commission did not specifically request comments from the individual petitioners.

[9] *See* National Vehicle Leasing Association ("NVLA") Comment, Document 103–32, at 2–5; National Automobile Dealers Association ("NADA") Comment, Document 103–33, at 3–5; and National Independent Auto Dealers Association ("NIADA") Comment, Document 103–35, at 2–3.

[10] Sandpoint Comment, Document 103–14. *See also* New York DMV Comment, Document 103–37, at 1; Better Buick GMC Comment, Document 103–22: Leasing companies "are not required by the manufacturer to provide showroom space, shop facilities, parts, customer parking and the many other requirements before a dealership may be obtained."

[11] Curt & Hal Comment, Document 103–12.

[12] Better Buick GMC Comment, Document 103–22. *See also* Greenway Motors Comment, Document 103–25: "It is a good rule, it works, and is helping to restore much needed credibility to the used vehicle business."

[13] NADA Comment, Document 103–33, at 5. NADA's comment requests that the Commission

Continued

The Commission recognizes that granting an exemption *only* to petitioners could be unfair, and that consumers might become confused by the result. Therefore, this analysis discusses how the requested exemptions would affect the used vehicle sales industry as a whole.

A. Auctions

The petitioners seek exemptions for auctions to which they consign vehicles:

> Petitioner[s] very often may consign automobiles to auctions with the clear intent that sales to wholesale purchasers will occur. There is a chance, however, that a non-"dealer" purchaser (*i.e.*, a "consumer" as defined in the Rule) may purchase an automobile at an auction, thus triggering, read literally, application of the Rule.[14]

Each of the petitions provided data concerning the average number of yearly lease terminations during the previous three years and the number of sales made during that period in "non-retail" settings to persons other than a lessee or lessee-procured buyer. According to the petitions, the petitioners averaged over 15,000 sales per year in "non-retail" settings. Presumably, the "non-retail" settings referred to include auctions, repossession lots and requests for bids, the subject of the petitions. However, none of the petitions, nor any of the comments, provided any information on the number of the petitioners' vehicles that are sold at auction or the percentage of auctions that are open to consumers.[15] According to a recent survey of U.S. commercial fleet owners, approximately, 32% of the vehicles sold in 1985 were consigned to auctions.[16]

The California Attorney General's office commented that the Rule need not apply to auctions in which a consumer would only rarely be present. However, the comment also noted that "many auctions * * * have wide appeal for [consumers] and hence * * * we believe it would be most important not to exempt auctions * * * totally but only sales through auctions * * * in which the dealer reasonably anticipates that the purchasers will not, except in rare cases, be [consumers].[17] The National Independent Automobile Dealers Association ("NIADA") commented that auctions "are, in reality, nothing more than other names for 'used car lots,' as the public is invited, encouraged, or at least allowed to purchase vehicles being disposed of by the petitioners."[18] The New York Commissioner of Motor Vehicles commented that leasing companies can "assure that their vehicles are not inadvertently sold directly to consumers [by allowing] their cars to be sold at auctions which permit only registered dealers and vehicle dismantlers to enter the auction locale."[19]

Petitioners imply that sales to consumers at auctions are inadvertent because petitioners consign vehicles to auctions with the intent that other dealers will purchase them. However, petitioners have provided no evidence to support the contention that sales to consumers at auctions are either rare or inadvertent. On the contrary, the comments received suggest that auctions may have wide appeal to consumers and may be analogous to traditional used car lots. The comments also indicate that certain auctions may even invite consumer attendance. Petitioners make no distinction between auctions attended only by dealers and auctions at which consumers are allowed or invited to attend. Clearly, an auction that is restricted to dealers only is not covered by the Rule.[20]

At auctions attended by consumers, as in "traditional" used car lots, the Buyers Guide provides consumers with an understanding of the term "as is."[21] In addition, the Buyers Guide reminds consumers to ask about having a pre-purchase inspection.[22] The list of vehicle systems and the possible problems that may arise provides an invaluable "roadmap" to those consumers who choose to conduct their own inspection of a vehicle.

Petitioners have provided no factual basis for their conclusory statement that auctions are non-retail environments. Without evidence that auctions do not have characteristics of "retail" environments and without evidence that sales to consumers through auctions are, in fact, rare, the Commission must deny the petitions for exemption.

B. Repossession Lots

The petitioners seek exemptions for sales made at "repossession lots":

> Petitioner uses repossession lots maintained by others, again with the expectation that wholesale buyers only will make purchases. While the public is not invited to purchase such automobiles and the setting is not a retail sales environment, as members of the financial services industry have clearly proven, a non-wholesale purchaser may, once again, seek to purchase an automobile, thus once again raising the question of compliance with the Rule.[23]

The exact definition of the term "repossession lot" is unclear. In its comment, NADA described a repossession lot as:

> * * * a permanent or regular sales point where a third party offers vehicles up for sale to "dealers." NADA dealers do not, of course, use "repossession lots" strictly for repossessions nor do most dealer repossessions go to "repossession lots."[24]

In its comment, NIADA categorized repossession lots as nothing more than "used car lots."[25] The Oregon IADA commented that "[r]epossession lots are certainly open to the public * * *."[26]

The Commission has analyzed the issue of repossession lots in the same manner as it has analyzed auctions. That is, if a repossession lot is open only to dealers, the Rule does not apply.[27] However, the record indicates that at least some repossession lots are open to consumers as well as dealers. The petitioners have not made a sufficient showing that in such circumstances there is no need for the Rule because of an absence of a retail sales environment where deceptive sales practices, which

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consider its remarks as a formal petition for exemption under section 18(g) of the FTC Act. *Id.* at 2. However, NADA's comment is generally addressed to the questions posed in the Notice, and presents no new issues, apart from the request that any exemptions granted be extended to all dealers.

[14] Petition at 2.

[15] The Commission specifically requested such information. *See* Notice at 10885 (Questions 2, 3(a), 3(b)).

[16] "Used Car Marketing Results," *NAFA Bulletin* (May 1986), at 12, 22–23 (the "NAFA Study"). The *NAFA Bulletin* is published by the National Association of Fleet Administrators, Inc., which is headquartered in Iselin, New Jersey. The NAFA Study has been placed on the public record and is identified as Document 103–38 in FTC File 215–54.

[17] California Attorney General's Comment, Document 103–29.

[18] NIADA Comment, Document 103–35, at 2.

[19] New York DMV Comment, Document 103–37, at 1.

[20] *See* §§ 455.1(d)(4) and 455.2(a) of the Used Car Rule.

[21] The Buyers Guide may also foster warranty competition among the several dealers that offer to sell used vehicles at the same auction.

[22] The Buyers Guide may point out to the consumer the desirability of a pre-purchase independent inspection, which the Commission believes to be the best method for determining a vehicle's mechanical condition. *See also* SBP at 45724. To the extent that a pre-purchase independent inspection of vehicles at an auction may be impossible, some consumers might find the Buyer Guide's disclosure useful in considering how much, if anything, to bid at an auction.

[23] Petition at 2.

[24] NADA Comment, Document 103–33, at 3.

[25] NIADA Comment, Document 103–35, at 2.

[26] Oregon IADA Comment, Document 103–27. *See also* California Attorney General's Comment, Document 103–29 (the Rule should cover repossession lots in which the dealer reasonably anticipates that vehicles will be purchased by consumers); and NIADA Comment, Document 103–35, at 2 (repossession lots are the same as conventional used car lots).

[27] *See supra* note 20.

the rule is designed to prevent or remedy, might occur. Consequently, the Commission is denying the petitioners request to exempt all repossession lot sales from the Rule.

C. Request for Bids

The petitioners seek an exemption for sales made through the solicitation of bids:

> Petitioner may solicit bids for a unit from dealers. Occasionally, a dealer will advise a friend of the availability of a given unit and that person will also ask for an opportunity to submit a bid. Clearly that "consumer" is not acting in an environment which bespeaks a retail setting.[28]

The NAFA Study does not directly address the issue of how many vehicles are sold though this process. The NAFA Study does, however, note that in 1.1% of all U.S. commercial fleet sales, the selling price is determined by the highest bid received.[29]

The Commission has applied the same analysis to requests for bids as for auctions and repossession lots. A request for bids that is open only to other dealers would not be covered by the Rule, because dealer-to-dealer transactions are specifically excluded by the Rule.[30] Where bids are solicited or accepted from consumers, however, the risk remains that a dealer might make the same misrepresentations as in the "traditional" retail setting. Petitioners have submitted no evidence to show that the protections of the Rule are any less necessary in a consumer sales transaction that was prompted by a solicitation for bids than are necessary in other used car sales. Without such evidence, the petitions are unsubstantiated and are thus denied.

D. Consignment Sales

The petitioners also seek exemption for consumer sales made by third party sales agents (consignment sales). The petitioners state:

> Petitioner may, from time to time, seek the assistance of a third party sales agent in a different part of the country because a vehicle is located there at the time that it comes off lease. In this instance * * * the actual vehicle disposal may be in a retail setting. * * * Petitioner, however, has no means to assure compliance, and the terms of the Rule, by defining dealer as one who "offers" a unit for sale, clearly provides a duty of compliance on the sales agent * * *. Under these circumstances, there is no logical reason to continue to impose potential liability on the Petitioner for the acts of another over whom Petitioner has no effective control, and the Commission should focus solely on the conduct of the sales agent.[31]

Several automobile dealer trade associations commented that the Commission should not exempt consignment sales. NADA's comment concluded that third party sales should not be exempt from the Rule.[32] NIADA commented that "[t]o suggest to the FTC that the petitioners cannot control their own third-party agents would lead one to believe that perhaps the petitioners should re-examine their hiring practices, rather than attempt to escape from the existing Rule * * *. If the petitioners are concerned about whether their agents are complying, then [they should] remove the vehicles to their own premises to ensure compliance * * *" [33] The Nebraska IADA stated that "[v]ehicles sold through third parties opens a large field of possible abuses." [34]

The Commission is denying the request to exempt consignors of used vehicles from their obligation to comply with the Rule. Petitioners have not supported their claim that dealers do not have any means of ensuring compliance with the Rule when used vehicles are consigned to third party agents. On the contrary, as the comments suggest, dealers can make Rule compliance a condition of the consignment contract. Moreover, it is in the dealers' economic self-interest to carefully choose consignees to ensure that the consignee will comply with the consignment contract and will comply with any applicable State or Federal laws. Dealers should be equally able to ensure compliance with the Used Car Rule. In addition, dealers could choose to use private indemnification agreements to lessen the chance that a consignor-dealer would be financially responsible for its consignee's malfeasance.

Although the Commission recognizes that third party sales agents are obligated themselves to comply with the Rule, in certain circumstances it nevertheless may be appropriate to direct enforcement action against the consignor. For example, if all the vehicles at ten dealerships have Buyers Guides, *except* the vehicles that are on consignment from one leasing company, Commission action against the consignor-leasing company may be warranted.

V. Conclusion

The Commission has concluded that exemptions for sales at auctions, repossession lots or through requests for bids, which are open or promoted to consumers, are not warranted. However, the Rule does not apply where a dealer offers a used vehicle for sale through an auction, repossession lot or request for bids that is open only to dealers. The Commission also has concluded that an exemption for consignment sales is unwarranted.

For the reasons discussed in this notice, the Commission has determined that the petitions for exemption should be denied.

List of Subjects in 16 CFR Part 455

Used cars, Trade practices.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 87-21169 Filed 9-14-87; 8:45 am]

BILLING CODE 6750-01-M

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[28] Petition at 2.

[29] NAFA Study at 12.

[30] *See supra* note 20.

[31] Petition at 2.

[32] NADA Comment, Document 103-33, at 6. However, NADA's comment also implies that these transactions should be exempt. *Id.* at 4.

[33] NIADA Comment, Document 103-35, at 3.

[34] Nebraska IADA Comment, Document 103-18. *See also* New York DMV Comment, Document 103-37, at 1: "[L]easing companies may assure themselves they are selling their vehicles located * * * at wholesale by selling to registered dealers only."

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

[Regulations No. 16]

Supplemental Security Income for the Aged, Blind, and Disabled; Residence and Citizenship; Correction

AGENCY: Social Security Administration, HHS.

ACTION: Final rule; correction.

SUMMARY: This document corrects § 416.1618, a final rule to be codified in 20 CFR Part 416, which was published in the **Federal Register** on June 10, 1987 (52 FR 21939). The second sentence of that section inadvertently omitted a reference to paragraph (b)(16) of that same section. This document also makes conforming corrections in the preamble.

FOR FURTHER INFORMATION CONTACT: Dave Smith, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594-7460.

SUPPLEMENTARY INFORMATION: A revision of § 416.1618(b) of Regulations No. 16 was published as a final rule on June 10, 1987 (52 FR 21939). This section, which lists the categories of aliens who are permanently residing in the United States under color of law (PRUCOL), states that none of the categories

includes applicants for an Immigration and Naturalization status unless specified in the category. The only category that specifies applicants is § 416.1618(b)(6). However, applicants can also be found to be PRUCOL under § 416.1618(b)(16) if they meet the requirements of that paragraph. We are correcting § 416.1618(b) and the preamble to make this clear.

PART 416—[AMENDED]

The following corrections are made in FR Doc. 87–12987 published in the **Federal Register** June 10, 1987 (52 FR 21939).

1. On page 21940, the middle column, the third sentence of the first full paragraph is corrected to read:

"The regulations do not apply to applicants for an Immigration and Naturalization status other than applicants covered under *Berger* v. *Heckler*, 771 F.2d 1556 (1985) (paragraphs (b)(6) and (b)(16) of § 416.1618 of these regulations.)"

2. On page 2942, the third column, the response to the first comment is corrected to read:

"Response: We generally agree and have clarified § 416.1618(b) accordingly. Nonimmigrants are not PRUCOL; applicants for INS status may be found to be PRUCOL only under § 416.1618(b)(6) or (16)".

§ 416.1618 [Corrected]

3. On page 21944, the first column, paragraph (b) is corrected to read:

(b) *Categories of aliens who are permanently residing in the United States under color of law.* Aliens who are permanently residing in the United States under color of law are listed below. None of the categories includes applicants for an Immigration and Naturalization status other than those applicants listed in paragraph (b)(6) of this section or those covered under paragraph (b)(16) of this section. None of the categories allow SSI eligibility for nonimmigrants; for example, students or visitors. Also listed are the most common documents that the Immigration and Naturalization Service provide to aliens in these categories:

* * * * *

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program)

Dated: September 4, 1987.

James F. Trickett,

Deputy Assistant Secretary for Administrative and Management Services.

[FR Doc. 87–21167 Filed 9–14–87; 8:45 am]

BILLING CODE 4190–11–M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2619

Valuation of Plan Benefits in Single-Employer Plans; Amendment Adopting Additional PBGC Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This amendment to the regulation on Valuation of Plan Benefits in Single-Employer Plans contains the interest rates and factors for the period beginning October 1, 1987. The use of these interest rates and factors to value benefits is mandatory for some terminating single-employer pension plans and optional for others. The PBGC adjusts the interest rates and factors periodically to reflect changes in financial and annuity markets. This amendment adopts the rates and factors applicable to plans that terminate on or after October 1, 1987, and will remain in effect until the PBGC issues new interest rates and factors.

EFFECTIVE DATE: October 1, 1987.

FOR FURTHER INFORMATION CONTACT: John Foster, Attorney, Corporate Policy and Regulations Department, Code 35400, Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, DC 20006, 202–778–8850 (202–778–8859 for TTY and TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: The PBGC's regulation on the valuation of plan benefits in single-employer plans (29 CFR Part 2619) sets forth the methods for valuing plan benefits of terminating single-employer plans covered under Title IV of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). Although the amendments to Title IV effected by the Single-Employer Pension Plan Amendments Act of 1986 ("SEPPAA") change significantly the rules for terminating single-employer plans, the valuation rules are much the same. (SEPPAA applies to all plan terminations initiated on or after January 1, 1986.) Under amended ERISA section 4041(c), all plans wishing to terminate in a distress termination (like all insufficient plans under prior law) must value guaranteed benefits and (new under SEPPAA) benefit commitments under the plan using the formulas set forth in Part 2619. Plans terminating in a standard termination may, for purposes of the notice given to the PBGC, use these formulas to value benefit commitments, although this is not required. (Such plans may value benefit commitments that are payable as annuities on the basis of a qualifying bid obtained from an insurer.)

Appendix B in Part 2619 sets forth the interest rates and factors that are to be used in the formulas contained in the regulation. Because these rates and factors are intended to reflect current conditions in the financial and annuity markets, it is necessary to update the rates and factors periodically.

The rates and factors currently in use have been in effect since July 1, 1987 (52 FR 22635 (June 15, 1987)). Changes in the financial and annuity markets now require an increase in those rates. Accordingly, this amendment adds to Appendix B a new set of interest rates and factors for valuing benefits in plans that terminate on or after October 1, 1987, which set reflects an increase of ¼ percent in the immediate interest rate to 8 percent.

Generally, the interest rates and factors will be in effect for at least one month. However, any published rates and factors will remain in effect until such time as the PBGC publishes another amendment changing them. Any change in the rates normally will be published in the **Federal Register** by the 15th of the month preceding the effective date of the new rates or as close to that date as circumstances permit.

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest rates and factors promptly so that the rates can reflect, as accurately as possible, current market conditions.

Because of the need to provide immediate guidance for the valuation of benefits in plans that will terminate on or after October 1, 1987, and because no adjustment by ongoing plans is required by this amendment, the PBGC finds that good cause exists for making the rates set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this is not a "major rule" under the criteria set forth in Executive Order 12291, because it will not result in an annual effect on the economy of $100 million or more, a major increase in costs for consumers or individual industries, or significant adverse effects on competition, employment, investment, productivity, or innovation.

List of Subjects in 29 CFR Part 2619

Employee benefit plans, Pension insurance, and Pensions.

In consideration of the foregoing, Part 2619 of Chapter XXVI, Title 29, Code of Federal Regulations, is hereby amended as follows:

PART 2619—[AMENDED]

1. The authority citation for Part 2619 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362, as amended by secs. 11004(a), 11007–11009, 11016 (c)(12)–(c)(13) and 11011(a), Pub. L. 99–272, 100 Stat. 239–240, 244–252, 274 and 253–257.

2. Rate Set 69 of Appendix B is revised and Rate Set 70 of Appendix B is added to read as follows. The introductory text is republished for the convenience of the reader and remains unchanged.

Appendix B–Interest Rates and Quantities Used To Value Immediate and Deferred Annuities

In the table that follows, the immediate annuity rate is used to value immediate annuities, to compute the quantity "G_y" for deferred annuities and to value both portions of a refund annuity. An interest rate of 5% shall be used to value death benefits other than the decreasing term insurance portion of a refund annuity. For deferred annuities, k_1, k_2, k_3, n_1, and n_2 are defined in § 2619.45.

Rate set	For plans with a valuation date		Immediate annuity rate percent	Deferred annuities				
	On or after	Before		k_1	k_2	k_3	n_1	n_2
* *	*	*	*	*	*	*		
69	7–1–87	10–1–87	7.75	1.0700	1.0575	1.0400	7	8
70	10–1–87		8.00	1.0725	1.0600	1.0400	7	8

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 87–21122 Filed 9–14–87; 8:45 am]

BILLING CODE 7708–01–M

29 CFR Part 2676

Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal; Interest Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This is an amendment to the Pension Benefit Guaranty Corporation's regulation on Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal (29 CFR Part 2676). The regulation prescribes rules for valuing benefits and certain assets of multiemployer plans under sections 4219(c)(1)(D) and 4281(b) of the Employee Retirement Income Security Act of 1974. Section 2676.15(c) of the regulation contains a table setting forth, for each calendar month, a series of interest rates to be used in any valuation performed as of valuation date within that calendar month. On or about the fifteenth of each month, the PBGC publishes a new entry in the table for the following month, whether or not the rates are changing. This amendment adds to the table the rate series for the month of October 1987.

EFFECTIVE DATE: October 1, 1987.

FOR FURTHER INFORMATION CONTACT: Deborah C. Murphy, Attorney, Corporate Policy and Regulations Department (35400), Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington DC 20006; 202–778–8850 (202–778–8859 for TTY and TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The PBGC finds that notice of and public comment on this amendment would be impracticable and contrary to the public interest, and that there is good cause for making this amendment affective immediately. These findings are based on the need to have the interest rates in this amendment reflect market conditions that are as nearly current as possible and the need to issue the interest rates promptly so that they are available to the public before the beginning of the period to which they apply. (*See* 5 U.S.C. 553 (b) and (d).). Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply (5 U.S.C. 601(2)).

The PBGC has also determined that this amendment is not a "major rule" within the meaning of Executive Order 12291 because it will not have an annual effect on the economy of $100 million or more; or create a major increase in costs or prices for consumers, individual industries, or geographic regions; or have significant adverse effects on competition, employment, investment, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 29 CFR Part 2676

Employee benefit plans, Pensions.

In consideration of the foregoing, Part 2676 of Subchapter H of Chapter XXVI of Title 29, Code of Federal Regulations, is amended as follows:

PART 2676—VALUATION OF PLAN BENEFITS AND PLAN ASSETS FOLLOWING MASS WITHDRAWAL

1. The authority citation for Part 2676 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1399(c)(1)(D), and 1441(b)(1).

2. In § 2676.15, paragraph (c) is amended by adding to the end of the table of interest rates therein the following new entry:

§ 2676.15 Interest.

* * * * *

(c) *Interest rates.*

For valuation dates occurring in the month—	The values of i_k are—															
	i_1	i_2	i_3	i_4	i_5	i_6	i_7	i_8	i_9	i_{10}	i_{11}	i_{12}	i_{13}	i_{14}	i_{15}	i_u
*	*				*			*		*			*		*	
October 1987	.09875	.095	.09	.085	.08	.07375	.07375	.07375	.07375	.07375	.0675	.0675	.0675	.0675	.0675	.06

Issued at Washington, DC, on this 8th day of September 1987.

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 87-21121 Filed 9-14-87; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DoD Regulation 6010.8-R]

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Implementation of a CHAMPUS DRG-Based Payment System

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule amendment.

SUMMARY: On September 1, 1987, the Department of Defense published Table 2 (52 FR 33031), "National Urban and Rural Adjusted Standardized Amounts, Labor/Nonlabor, Cost-Share Per Diem, and Area Wage Indexes" which gave estimated amounts. This amendment is to display the actual amounts for the table.

EFFECTIVE DATE: October 1, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen E. Issacson, Policy Branch, OCHAMPUS, telephone (303) 361-4005.

List of Subjects in 32 CFR Part 199

Claims, Handicapped, Health insurance, Military personnel.

Accordingly, 32 CFR Part 199 is amended as follows:

PART 199—[AMENDED]

1. The authority citation for Part 199 continues to read as follows:

Authority: 10 U.S.C. 1079, 1086, 5 U.S.C. 301.

2. Table 2 is revised to read as follows:

TABLE 2.—NATIONAL URBAN AND RURAL ADJUSTED STANDARDIZED AMOUNTS, LABOR/NONLABOR, COST-SHARE PER DIEM, AND AREA WAGE INDEXES

[Editorial Note: This table will not appear in the Code of Federal Regulations.]

National urban adjusted standardized amount	$2,835.21
Labor portion	2,060.63
Nonlabor portion	774.58
National rural adjusted standardized amount	$2,531.44
Labor portion	1,952.50
Nonlabor portion	578.94
Cost-share per diem for beneficiaries other than dependents of active duty members	$175.00

Area Wage Indexes

The area wage indexes used under the CHAMPUS DRG-based payment system are those used under the Medicare PPS as published in the **Federal Register** on June 10, 1987 (52 FR 22135).

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

September 10, 1987.

[FR Doc. 87-21199 Filed 9-14-87; 8:45 am]

BILLING CODE 3810-01-M

Corps of Engineers, Department of the Army

33 CFR Part 207

Ouachita and Black Rivers, Arkansas and Louisiana, Mile 0.0 to Mile 338.0 (Camden, AR) Above the Mouth of the Black River; Use, Administration, and Navigation

AGENCY: U.S. Army Corps of Engineers DOD.

ACTION: Final rule.

SUMMARY: The U. S. Army Corps of Engineers is amending the regulations in 33 CFR 207.249, which govern the use, administration, and navigation of Ouachita and Black Rivers, Arkansas, and Louisiana by adding the Red River, Louisiana, from Mile 6.7 to Mile 276.0. These revisions are necessary to advise the waterway users that the Corps of Engineers is constructing a 9 feet by 200 feet project on the Red River with five locks and dams.

EFFECTIVE DATE: September 15, 1987.

ADDRESS: HQUSACE (CECW-OM), Washington, DC 20314-1000.

FOR FURTHER INFORMATION CONTACT: Mr. Rixie J. Hardy, phone number (202) 272-1773.

SUPPLEMENTARY INFORMATION: The Red River Waterway, with project dimensions of 9 feet by 200 feet, was authorized for construction by the River and Harbors Act of 1968 (90th Congress). Five locks and dams will provide the necessary lift from the Old River Lock at the Mississippi River to Shreveport, Louisiana. Locks with usable dimensions of 84 feet wide by 685 feet long are being constructed. Lock and Dam No. 1 has been completed and is being operated and maintained by Government personnel. Lock and Dam No. 2 (John H. Overton Lock and Dam) is scheduled to be open for navigation on or about 15 October 1987 with operation and maintenance to be performed by contract personnel. Lock and Dam No. 3 is in the initial phase of construction. Construction schedules for Locks and Dams 4 and 5 have not yet been established. The Vicksburg District has issued written navigation notices advising waterway users of the operation of locks and dams on the Red River Waterway.

Note.—The Secretary of the Army (SA) has determined that this document does not contain a major rule requiring a regulatory impact analysis under Executive Order 12291 because it will not result in an annual effect on the economy of $100 million or more and it will not result in a major increase in costs or prices. The SA certifies that this rule will not have a significant economic impact on a substantial number of entities and thus does not require the preparation of a regulatory flexibility analysis.

List of Subjects in 33 CFR Part 207

Navigation, Navigable waters, Waterways.

Date: September 10, 1987.

John O. Roach II,

Department of the Army Liaison Officer.

33 CFR Part 207 is amended as follows:

PART 207—[AMENDED]

1. The authority citation for Part 207 continues to read as follows:

Authority: 40 Stat. 266; 3 U.S.C. 1.

2. In Part 207, § 207.249 is amended as follows:

a. The heading is to read as set out below:

§ 207.249 Ouachita and Black Rivers, Arkansas and Louisiana, Mile 0.0 to Mile 338.0 (Camden, Arkansas) above the mouth of the Black River; the Red River, Louisiana, Mile 6.7 (Junction of Red, Atchafalaya and Old Rivers) to Mile 276.0 (Shreveport, Louisiana); use, administration, and navigation.

b. Amending (b)(1) by adding before "The Lockmaster shall . . ."

"(i) *Locks staffed with Government personnel.*" and by adding at the end of (b)(1):

"(ii) *Locks staffed with contract personnel.* Contract lock operators shall give all necessary orders and direction for operation of the locks. No one shall cause any movement of any vessel or other floating object in the locks or approaches except by or under the direction of the contract lock operator. All duties and responsibilities of the lockmasters set forth in this section shall be performed by the contract lock operator except that the responsibility for enforcing all laws, rules and regulations shall be vested in an offsite government employee designated by the Vicksburg District Engineer."

c. Amending (b)(3)(iii) by adding at the end after "dam": "on the Ouachita

and Black Rivers" and by adding "(iv) *A navigation pass is not provided as part of the Red River Locks and Dams.* When water levels rise to within 2 feet of the top of the lock walls, operation of the locks will cease until the water level falls below this level. These stages can reasonably be expected to occur once in 10 years. No vessel, tow, or raft shall attempt to navigate over the lock or other structures at high river stages. United States Coast Guard radiotelephone broadcasts and U.S. Army Corps of Engineers navigation bulletins should be monitored for information on lock operations."

d. Amending (b)(5)(iii) by adding after "vessels, tows, or rafts" "navigating on the Ouachita and Black Rivers" and by adding:

(iv) The maximum dimensions on the Red River Waterway of a vessel, tow or raft attempting to pass through the lock in a single passage are 80 feet wide, 685 feet long, and 9 feet draft. Tows or rafts requiring breaking into two or more sections to pass through the lock may transit the lock at such time as the lockmaster determines that they will neither unduly delay the transit of craft of lesser dimensions nor endanger the lock structure and appurtenances because of wind, current, or other adverse conditions. These craft are also subject to such special handling requirements as the lockmaster finds necessary at the time of transit.

e. Amending paragraph (d) by revising the last sentence as follows:

"Copies may be obtained free of charge at any of the locks or from the Vicksburg District Engineer, Vicksburg, Mississippi, upon request."

[FR Doc. 87-21123 Filed 9-14-87; 8:45 am]
BILLING CODE 3710-92-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

Fishing Regulations; Delaware Water Gap National Recreation Area, Pennsylvania and New Jersey

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: On February 11, 1987, the National Park Service, Department of the Interior, published in the **Federal Register** (52 FR 4511) a proposed rule to permit fishing methods at Delaware Water Gap National Recreation Area which are authorized under applicable State laws. This proposal was made available for public review and comment for a period of thirty-three (33) days following publication in the **Federal Register,** and ending on March 16, 1987. No comments, however, were received. As a result, a final regulation, unchanged from the proposed rule, is published to permit a level of public use and enjoyment of park resources consistent with the establishment of Delaware Water Gap National Recreation Area.

EFFECTIVE DATE: October 15, 1987.

FOR FURTHER INFORMATION CONTACT: Karl Theune, River District Ranger, Delaware Water Gap National Recreation Area, Bushkill, Pennsylvania 18324, Telephone: (717) 588-6637.

SUPPLEMENTARY INFORMATION:

Background

On April 30, 1984, National Park Service General Regulations [36 CFR 2.3(d)(1)], became effective prohibiting "Fishing in fresh water in any manner other than by hook and line, with the rod or line being closely attended." This regulation is in conflict with Pennsylvania and New Jersey fishing regulations which have been in effect since Delaware Water Gap National Recreation Area was authorized in 1965 and for many years prior to its authorization. Examples of conflicts include:

1. Pennsylvania permits the use of spears or gigs to take carp, gar, suckers and eels. New Jersey regulations allow for the use of spears and long bows for the taking of shad, eels, carp, suckers, herring, and bullheads; suckers may be gigged.

2. Both states permit the use of seines for getting bait, digging of lampreys, and five (5) tip-ups for ice fishing.

The National Park Service has determined that allowing recreational fishing at Delaware Water Gap National Recreation Area in accordance with methods permitted by the States of Pennsylvania and New Jersey would be advantageous both to visitors use, as well as to the management of the park resources. The species of fish to be taken under example 1 above consists of both exotics as well as native species that cannot be taken effectively by traditional rod and reel methods.

The use of seines for bait collection, digging of lamprey eels, and the use of tip-ups for ice fishing, in example 2 above, are all traditional uses by the Delaware River fishermen. In addition, the regulations of both the New Jersey Division of Fish, Game and Wildlife, and the Pennsylvania Fish Commission allow these methods of capture. Many years of using these traditional fishing methods have not been detrimental to the area, and the National Park Service anticipates no deterimental effects from continuing these methods. If these methods should cause harm to the fishery or other resources in the future, they can be prohibited by designating areas closed to certain fishing methods. Commercial fishing methods allowed under State laws will *not* be allowed.

There have been no changes in the final rule from the proposed rule published February 12, 1987. During the comment period that expired March 16, 1987, no comments from organizations, agencies or private citizens were received. Consequently, the rule promulgated here is the same as the one proposed.

Drafting Information

The principal author of this rulemaking is Karl Theune, River District Ranger, Delaware Water Gap National Recreation Area.

Paperwork Reduction Act

This rulemaking does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 et seq.

Compliance With Other Laws

The Department of the Interior has determined that this document is not a "major rule" within the meaning of E.O. 12291, and certifies that this document will not have a significant effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

This rule will contribute in some part to the local tourism of communities in the vicinity of the park by assuring the continued availability of the range of recreational activities that have been available to Park users in the past.

Pursuant to the National Environmental Policy Act (42 U.S.C. 4332), the Service has prepared an environmental assessment on this special regulation with a finding of No Significant Impact which is available at the address noted above.

List of Subjects in 36 CFR Part 7

National parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, 36 CFR Chapter I is amended as follows:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

1. The authority citation for Part 7 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 9a, 462(k); Section 7.96 also issued under DC Code 8–137 (1981) and DC Code 40–721 (1981).

2. By adding a new paragraph (g) to § 7.71 to read as follows:

§ 7.71 Delaware Water Gap National Recreation Area.

* * * * *

(g) *Fishing.* Unless otherwise designated, fishing in any manner authorized under applicable State law is allowed.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

Date: August 25, 1987.

[FR Doc. 87–21209 Filed 9–14–87; 8:45 am]

BILLING CODE 4310–70–M

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36 CFR Part 7

Fishing Regulations; Bighorn Canyon National Recreation Area, Montana and Wyoming

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: On October 10, 1986, the National Park Service, Department of the Interior, published in the **Federal Register** (51 FR 197) a proposed rule to allow fishing methods at Bighorn Canyon National Recreation Area which are authorized under the applicable state laws of the states of Montana and Wyoming. This proposal was made available for public review and comment for a period of thirty (30) days following publication in the **Federal Register**, and ending on November 9, 1986. No comments, however, were received. As a result, a final regulation, unchanged from the proposed rule, is published to permit a level of public use and enjoyment of park resources consistent with the establishment of Bighorn Canyon National Recreation Area for both preservation and recreational use.

EFFECTIVE DATE: October 15, 1987.

FOR FURTHER INFORMATION CONTACT: Richard L. Lake, Chief Park Ranger, Bighorn Canyon National Recreation Area, P.O. Box 458, Fort Smith, Montana 59035, Telephone: 406–666–2412.

SUPPLEMENTARY INFORMATION:

Background

National Park Service General Regulations [36 CFR 2.3(d)(l)], which became effective on April 30, 1984, prohibit "Fishing in fresh water in any manner other than by hook and line, with the rod or line being closely attended".

This regulation is in conflict with Montana and Wyoming fishing regulations which have been in effect since before Bighorn Canyon National Recreation Area was authorized in 1966, and for many years prior to its authorization.

Examples of conflicts include:

1. Montana law states, "All waters open to bow and arrow hunting and snagging of non-game fish. Non-game fish and burbot may be taken with rubber or spring propelled spears by persons swimming or submerged in all waters open to fishing".

2. Wyoming law states, "It is legal to take non-game fish by bow and arrow and by crossbow without a license or permit". "No person shall use a spear gun to take fish underwater without obtaining the proper fishing license and an underwater fishing license."

Congress' stated interest in the enabling legislation for Bighorn Canyon National Recreation Area was for the National Park Service to permit hunting and fishing on lands and waters within the recreation area in accordance with the appropriate laws of the United States and the states of Montana and Wyoming.

The National Park Service has determined that allowing fishing at Bighorn Canyon National Recreation Area in accordance with methods permitted by the states of Montana and Wyoming would benefit the visitor and simplify fishing regulations and enforcement. This regulation is necessary to allow recreational taking of rough or non-game fish by traditional methods other than hook and line, i.e. underwater spear fishing and bow and arrow fishing. The National Park Service anticipates that this change will have a positive effect on the fishery by exerting some control on increasing numbers of non-game fish.

Drafting Information

The principal author of the rulemaking is Richard W. Hougham, Bighorn Canyon National Recreation Area, Lovell, Wyoming 82431.

Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

Compliance With Other Laws

The Department of the Interior has determined that this rulemaking is not a "major rule" within the meaning of E.O. 12291, and certifies that this document will not have a significant effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

This rule will contribute in some part to the tourism of communities in the vicinity of the recreation area by assuring the continued availability of the range of recreational activities that have been available to area users in the past.

The NPS has determined that this rulemaking will not have a significant effect on the quality of the human environment, health and safety because it is not expected to:

(a) Increase public use to the extent of compromising the nature and character of the area or causing physical damage to it;

(b) Introduce noncompatible uses which might compromise the nature and characteristics of the area, or cause physical damage to it;

(c) Conflict with adjacent ownerships or land uses; or

(d) Cause a nuisance to adjacent owners or occupants.

Based on this determination, this rulemaking is categorically excluded from the procedural requirements of the National Environmental Policy Act (NEPA) by Departmental Regulations in 516 DM 6 (49 FR 21438). As such, neither an Environmental Assessment nor an Environmental Impact Statement has been prepared.

List of Subjects in 36 CFR Part 7

National parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, 36 CFR Chapter I is amended as follows:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

1. The authority citation for Part 36 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 9a, 462(k): Section 7.96 also issued under DC Code 8–137 (1981) and D.C. Code 40–721 (1981).

2. In § 7.92, by adding a new paragraph (c) to read as follows:

§ 7.92 Bighorn Canyon National Recreation Area.

* * * * *

(c) *Fishing.* Unless otherwise designated, fishing in any manner authorized under applicable State law is allowed.

Susan Reece,

Acting Assistant Secretary for Fish and Wildlife and Parks.

Date: August 25, 1987.

[FR Doc. 87–21208 Filed 9–14–87; 8:45 am]

BILLING CODE 4310–70–M

POSTAL SERVICE

39 CFR Part 111

Domestic Mail Manual; Miscellaneous Amendments

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service hereby describes the numerous miscellaneous revisions consolidated in the Transmittal Letter for issue 24 of the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations, see 39 CFR 111.1.

Most of the revisions are minor, editorial, or clarifying. Substantive changes, such as the revised regulations on mail dispute cases, publishers qualifying for second-class in-county rates, and restrictions on the purchase of postal money orders, have previously been published in the **Federal Register.**

EFFECTIVE DATE: September 20, 1987.

FOR FURTHER INFORMATION CONTACT: Paul J. Kemp, (202) 268–2960.

SUPPLEMENTARY INFORMATION: The Domestic Mail Manual has been amended by the publication of a transmittal letter for issue 24, dated September 20, 1987. The text of all published changes is filed with the Director of the **Federal Register.** Subscribers to the Domestic Mail Manual receive these amendments automatically from the Government Printing Office.

The following except from the Summary of Changes section of the transmittal letter for issue 24 covers the minor changes not previously described in interim or final rules published in the **Federal Register.**

Note.—This is a complete issue of the DMM, containing changes published in the Postal Bulletin through August 6, 1987 (Postal Bulletin 21631). All future issues of the DMM will also be complete issues.

Summary of Changes

1. Exhibits 122.63c–d showing labeling lists for sectional center facilities serving single three-digit ZIP Code areas and SCFs serving more than one three-digit ZIP Code prefix area are updated. The change in Exhibit 122.63d also incorporates the three-digit SCF code required for the SCF label. The mandatory compliance date for these changes is October 5, 1987 (PB 21626, 7–2–87; 21627, 7–9–87; 21628, 7–16–87; 21629, 7–23–87). Labeling lists in Exhibits 122.63e–l and Exhibit 722.1 also are updated (PB 21627; 7–9–87; 21628, 7–16–87). Mixed States labeling lists (Exhibits 122.63p–r) instructions are revised (PB 21629, 7–23–87).

2. Section 125.2, *Conditions Applied to Mail Addressed to Military Post Offices Overseas* (PB 21625, 6–25–87; 21628, 7—16–87; 21630, 7–30–87) is updated.

3. Section 125.3, *Military Ordinary Mail* (MOM), is added at the request of the Department of Defense (PB 21625, 6–25–87).

4. Section 126, *Mail Sent Via Department of State to U.S. Government Personnel Abroad,* is revised to show changes in 126.1, 126.221–223 and 126.31 as provided by the Department of State (PB 21624, 6–18–87).

5. Section 145.3 is revised to allow the use of colors to highlight the background of permit imprints and (2) to provide that the imprints may be embossed or unembossed (PB 21610, 3–12–87; 21628, 7–16–87).

6. Sections 146 and 911 pertaining to the payment of postage on unpaid or insufficiently prepared registered mail are modified to clarify the proper handling of this type of mail (PB 21631, 8–6–87).

7. * * *

8. Section 158.4 is revised to show that postal employees who place orders for overprinting the name and address of the delivery unit on PS Form 3849–A, *Delivery Notice or Receipt,* must submit them for processing to the Divisional Manager, Support Services Office (PB 21623, 6–11–87).

9. Sections 221, 321, 421, 621, and 721, which describe the types of materials mailable as Express Mail, First-, second-, third-, or fourth-class mail, are revised to emphasize the applicability of 123, 124, and 127 to all material presented for mailing (PB 21630, 7–30–87).

10. Sections 367.232, 464.32b, 667.121e, 667.132d, and 767.224 have been revised to show Exhibit 122.673d as a reference for labeling SCFs serving more than one three-digit ZIP Code prefix area (PB 21629, 7–23–87).

11. Section 373 is revised to indicate that a Priority Mail piece in a weight category for which the rates do not vary by zones may be deposited in street collection boxes (PB 21631, 8–6–87).

12. * * *

13. Sections 622.11c and 651.211b are revised to change the maximum-size limits of mail that may qualify for the third-class carrier route presort level rate. Effective May 31, 1987, the maximum-size limits for third-class carrier route presort level rate pieces increased to 11¾ inches in width and 14 inches in length. The maximum thickness remains ¾ of an inch (PB 21619, 5–14–87).

14. Section 642.2, is revised to clarify how Form 3624, *Application to Mail at Special Bulk Third-Class Rates* (April 1987 edition), must be processed at associate post offices, field divisions and MSCs and rates and classification centers.

15. Exhibit 722.1 is revised to show new ZIP Code and BMC changes (PB 21624, 6–18–87; PB 21627, 7–9–87).

16. Section 753 is revised to clarify that the 90-cent nonmachinable surcharge is not applicable to library rate materials or to special fourth-class postage rates (PB 21625, 6–25–87).

17. Section 911 is revised to correspond with 146 with regard to the handling of registered mail for which no postage or insufficient postage has been prepaid (PB 21631, 8–6–87).

18. A new section 914.175 is added to allow postal customers to use Collect-On-Delivery (COD) service in conjunction with Express Mail. As a result of this option, the following DMM sections are also revised: 149.221–222; 149.513–514; 149.515 is added; 262.2; 263.2; 291.2; 293.1–2; 295.1; 296.2; 914.171; 914.2; 914.41; 914.412; 914.434; 914.51b; 933.1 (PB 21629, 7–23–87).

19. Sections 914.54 and 914.622 are revised by the deletion of references to *personal* checks because it was never intended to differentiate between personal and business checks. The words *customer* and *addressee* are changed to *recipient* in nearly every reference. Section 914.531j is revised to specify that individuals who normally receive an addressee's mail may also accept and pay for COD articles. Section 914.54 is amended to state the forms of identification required when accepting recipient's check. When recipient is known to the delivery employee, one form of identification, preferably driver's license, must be recorded on the check (PB 21621, 5–28–87).

20. Section 914.715 d and e are amended to require that the postal employee completing Form 3821, *Bulk Receipt for COD Mail and Funds,* write in the total amount collected, clearly separating the total by the amount to be remitted by check and money order and the money order fees (PB 21625, 6–25–87).

21. * * *

22. Section 953 is revised to clarify requirements and to standardize format and terminology (PB 21625, 6–25–87).

23. Minor editorial and typographical changes have been made to 115.96; 144.741b; 154.623; 157.33; 241a; Exhibit 324.72; 914.531a–b; 917; 951.155.

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

1. The authority citation for 39 CFR Part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 5001.

2. In consideration of the foregoing, the table at the end of §111.3(e) is amended by adding at the end thereof the following:

§ 111.3 Amendments to the Domestic Mail Manual.

* * * * *

Transmittal letter for issue	Dated	FEDERAL REGISTER publication
24	Sept. 20, 1987	52 FR

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 87–21178 Filed 9–14–87; 8:45 am]

BILLING CODE 7710–12–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 270

[FRL 3253–5]

Extension of Date for Submission of Part A Permit Applications for Certain Cement Kilns Burning Hazardous Wastes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of extension of compliance date.

SUMMARY: Section 3004(q)(2)(C) of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments (HSWA) of 1984, subjects cement kilns in metropolitan areas with a population of greater than 500,000 to incinerator requirements as RCRA facilities. Because of substantial confusion under EPA regulations concerning whether and when the owners and operators of such cement kilns were required to file Part A permit applications, EPA is extending the date of Part A submission for such facilities to March 15, 1988. Cement kilns subject to RCRA under section 3004(q)(2)(C) that otherwise satisfy the criteria of RCRA section 3005(e) may qualify for interim status by filing a Part A permit application by the above date.

FOR FURTHER INFORMATION CONTACT: RCRA hotline at (800) 424–9346 (in Washington, DC, call 382–3000) or Barbara Foster, Office of Solid Waste (WH–563), U.S. Environmental Protection Agency, Washington, DC 20460, telephone (202) 382–7729.

SUPPLEMENTARY INFORMATION: Section 3004(q)(2)(C) of HSWA requires that any cement kiln located within the boundaries of an incorporated municipality with a population greater than 500,000 must comply with RCRA incinerator regulations to burn fuel that contains hazardous waste. Such kilns were not subject to RCRA permit requirements prior to November 8, 1984, the date of enactment of section 3004(q)(2)(C). Section 3004(q)(2)(C) was codified at 40 CFR 266.31(c) on July 15, 1985 (50 FR 28702) and recodified on November 29, 1985 (50 FR 49164). The section 3004(q)(2)(C) requirement to comply with RCRA incineration regulations remains in effect until the Agency develops substantive standards for cement kilns burning hazardous wastes. The Agency proposed such standards on May 6, 1987 in its proposed rule regarding burning of hazardous waste in boilers and industrial furnaces (*see* 52 FR 16982).

The Agency is aware of a number of kilns that may have become subject to RCRA permitting requirements as a result of section 3004(q)(2)(C). According to the most recent statistics available from the Bureau of the Census, 24 cities in the U.S. have a population greater than 500,000 (*see Government Finances*, GF–85, number 4, 1984–85). Those cities are listed in the table below. Any cement kiln that burns hazardous waste and that is located in one of these cities is thereby required to comply with the incinerator regulations of RCRA.

U.S Cities with a Population Greater than 500,000

Baltimore	Los Angeles
Boston	Memphis
Chicago	Milwaukee
Cleveland	New Orleans
Columbus	New York
Dallas	Philadelphia
Denver	Phoenix
Detroit	San Antonio
Honolulu	San Diego
Houston	San Francisco
Indianapolis	San Jose
Jacksonville	Washington DC

Facilities subject to RCRA regulations for incinerators are required to obtain permits that prescribe the appropriate operating and performance standards for burning fuel containing hazardous waste. "Existing" kilns may qualify for interim status to operate until they obtain a RCRA permit.

To qualify for interim status, a facility must meet the criteria set forth in RCRA section 3005(e), i.e., it must: (1) Be an existing hazardous waste management facility on November 19, 1980 or on the effective date of statutory or regulatory changes that render the facility subject to permitting requirements (in this case the applicable date is November 8, 1984—the date HSWA was enacted); (2) comply with notification requirements of section 3010; and (3) file a permit application.

Under 40 CFR 260.10, EPA defines "existing hazardous waste management facility" to mean either a facility that is "in operation," that is, actually treating, storing, or disposing of hazardous waste, or a facility "for which construction has commenced" on the relevant date. It should be noted that this definition, promulgated prior to enactment of HSWA, applies only to facilities eligible for interim status at that time, that is, those in existence on November 19, 1980. However, when HSWA was enacted, it amended section 3005(e) to allow facilities to obtain interim status if they were in existence on the date of statutory or regulatory changes that subject them to RCRA permitting. Although the Agency has not made the conforming change in its regulations defining "existing facilicy" to reflect the HSWA expansion of section 3005(e), the Agency interprets the definition to apply to all facilities "in existence" under section 3005(e)(1)(A)(ii).

Under § 260.10, a hazardous waste facility is "under construction" if it has received all hazardous waste management approvals necessary for physical construction and either a continuous, on-site construction program has begun or the facility has accepted substantial contractual obligations for such construction, to be completed within a reasonable time. Although not directly addressed by the regulations, EPA has interpreted "under construction" also to include facilities that have completed construction on the relevant date. In this case, however, to qualify as an "existing" hazardous waste management facility, the facility owner must be able to demonstrate an intent to handle hazardous waste within a reasonable time after the relevant date (46 FR 2344, January 9, 1981).

Section 270.10(e) of the RCRA regulations further defines permit application and interim status qualifications for facilities that meet the "in existence" requirement of section 3005(e). Under § 270.10(e)(1), they must submit a Part A permit application either (1) 6 months after the date of publication of regulations that first require the facility to comply with Parts 265 and 266, or (2) 30 days after the date the facility first becomes subject to the

standards of those parts, whichever comes first. When existing facilities must begin complying with the Part 265 interim status standards because of revisions to Parts 260, 261, 265, or 266, the Agency routinely publishes, in the **Federal Register**, a date for submission of the permit application (*see* § 270.10(e), note).

Section 270.10(e)(2) provides that the Agency can extend the date for Part A submission, by **Federal Register** notice, if it finds that there has been substantial confusion as to whether the owner or operator was required to file a permit application and that the confusion was due to ambiguities in EPA's regulations. Through today's notice, EPA is exercising its discretion to extend the date of Part A submission for cement kilns subject to section 3004(q)(2)(C) because of substantial confusion.

There are a number of factors that have led to substantial confusion for owners or operators of cement kilns who became subject to RCRA requirements under section 3004(q)(2)(C). First, these facilities became subject to RCRA requirements as a result of a statutory amendment, rather than as a result of the issuance of regulations. As noted in § 270.10(e)(1) of the RCRA regulations, when EPA issues or revises its regulations to apply RCRA requirements to a new category of facilities, the preamble to those rules will generally specify when permit applications for those facilities are due. In the case of these cement kilns, the application of RCRA requirements was a result of statutory rather than regulatory revision, providing no immediate opportunity to clarify permit application requirements. In addition, although the "big city cement kiln" provision was codified by the Agency on two separate occasions in Part 266, there was no information provided in these rulemakings concerning the permit application requirements for cement kilns already "in existence" as hazardous waste management facilities.

Finally, the permit application regulations for existing facilities under § 270.10(e) do not clearly address the requirements for facilities that become subject to RCRA due to statutory changes. Instead, the regulations address only regulatory changes (§ 270.10(e)(1)(i)) or changes at a facility that bring it into the RCRA system (§ 270.10(e)(1)(ii)). In fact, a possible reading of the regulations suggests that the Part A application would not be due until 30 days after a cement kiln actually begins to burn hazardous waste fuel. The Agency disagrees with this reading and believes that Part A permit applications for these cement kilns were due 30 days after enactment of HSWA; however, the Agency also believes that there is substantial confusion as to when or whether the Part A applications were due.

As a result of the confusion concerning when or whether Part A permit applications are to be submitted for cement kilns subject to RCRA under section 3004(q)(2)(C), which is in large part due to ambiguity in EPA's hazardous waste fuel regulations and permitting requirements, EPA is extending the date for Part A submission for such facilities until March 15, 1988. In setting that date, the Agency has allowed the 6-month period it typically allows after rulemaking actions requiring Part A submission. Furthermore, as discussed above, any such cement kiln seeking interim status must also demonstrate that it was in existence as a hazardous waste management facility on November 8, 1984.

On July 16, 1987, Petro Chem Processing, Inc. (Petro Chem) submitted to the Agency a petition for rulemaking. Petro Chem requested that, if the Agency were to exercise its discretion under § 270.10(e) to extend the date for Part A submission for these cement kilns, it do so by a notice and comment rulemaking under the Administrative Procedure Act (APA). Petro Chem claimed that the notice and comment procedures of the APA are necessary for the Agency to make the finding of substantial confusion required by § 270.10(e).

As authority for its petition, Petro Chem cited § 260.20 of the RCRA regulations as well as section 553 of the Administrative Procedure Act (APA). Thus, the petitioner requested that the Agency comply with the procedural requirements of § 260.20 if the Agency were to decide to deny its petition.

Section 260.20 provides that any person may petition the Agency to modify or revoke any provision of Parts 260 through 265. It requires the Administrator, upon receipt of a petition under that section, to publish in the **Federal Register** a tentative decision to grant or deny and, thereby, offer opportunity for public comment. The Administrator must then make a final decision after evaluating public comments.

However, Petro Chem's petition to the Agency is not properly based on § 260.20 because, in making a finding of substantial confusion under § 270.10(e), the Agency does not modify or revoke any provision in its RCRA regulations. Rather, EPA construes the petition as one founded solely on section 553(e) of the APA which provides that each Agency shall give interested persons the right to petition for the issuance, amendment, or repeal of a rule. Petitions submitted under the authority of section 553(e) alone are not subject to the procedural requirements of § 260.20.

The Agency has reviewed the petition submitted by Petro Chem and has decided to deny it for the following reasons. First, § 270.10(e)(2) does not contemplate notice and comment rulemaking in its application. Rather, § 270.10(e)(2) clearly provides that the Administrator will announce, in the **Federal Register**, any extension of the submission date for Part A permit applications made in accordance with that section. This notice satisfies the requirements of § 270.10(e)(2).

In addition, to the extent that this notice is a rulemaking for purposes of section 553 of the APA, the Agency believes that public comment on the extension provided by this notice is unnecessary given the absence of issues under § 270.10(e) for which comment would be useful. The Agency thus believes that it has "good cause" under section 553(b)(3)(B) of the APA to extend the date of these part A permit application submissions under § 270.10(e)(2) without prior notice and comment.

To the extent that this action is a "rule," the Agency believes that it has "good cause" under section 553(d) of the APA and section 3010(b) of RCRA to make it immediately effective. EPA is providing 6 months for owners and operators of affected cement kilns to submit Part A permit applications. This is ample time for compliance—hence, postponement of the effective date is unnecessary.

For the above stated reasons, the Agency hereby extends the date of Part A submissions for facilities subject to section 3004(q)(2)(C). Any cement kiln that is eligible for interim status and subject to section 3004(q)(2)(C), whether or not it is currently burning hazardous waste fuel, that fails to submit a Part A application by March 15, 1988, will be unable to qualify for interim status under section 3005(e), and thus will be required to obtain a RCRA permit prior to burning hazardous waste fuel. It should be noted that this extension of the date for Part A submission does not apply to any other treatment, storage, or disposal activity associated with the cement kiln burning of hazardous waste fuels.

Date: September 2, 1987.

Lee M. Thomas,

Administrator.

[FR Doc. 87-20762 Filed 9-14-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 86-480; RM-5431]

Radio Broadcasting Services; Starkville, MS

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allocates FM Channel 291C2 to Starkville, Mississippi and modifies the license of Station WSMU(FM) to specify operation on Channel 291C2 instead of Channel 292A. This action is taken in response to a petition filed by Starkville Broadcasting Co., Inc., licensee of Station WSMU(FM). With this action, this proceeding is terminated.

EFFECTIVE DATE: October 19, 1987.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86-480, adopted August 18, 1987, and released September 3, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. In § 73.202(b), the Table of FM Allotments is amended under Mississippi, by deleting Channel 292A at Starkville and adding 291C2.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-21109 Filed 9-14-87; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 86-448; RM-5410, RM-5758]

Radio Broadcasting Services; Centerville, Park City and Manti, UT

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 289C2 for Channel 288A at Centerville, Utah, and modifies the license of Station KCGL(FM) to specify operation on the new frequency, at the request of Radio Property Ventures. This action further dismisses the counterproposal of Park City Radio Associates to allot Channel 286A to Park City, Utah, which also would require the substitution of Channel 284 for 286 at Manti, Utah, and the imposition of a 17 kilometer site restriction on Channel 289C2 at Centerville (RM-5758). With this action, this proceeding is terminated.

EFFECTIVE DATE: October 19, 1987.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, Mass Media Bureau (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86-448, adopted August 17, 1987, and released September 3, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended, under Centerville, Utah, by deleting Channel 288A and adding Channel 289C2.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Mass Media Bureau.

[FR Doc. 87-21110 Filed 9-14-87; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF DEFENSE

48 CFR Parts 202, 203, 204, 205, 206, 207, 208, 210, 213, 214, 215, 217, 222, 225, 233, 244, 245, and 252

Department of Defense Federal Acquisition Regulation Supplement; Defense Acquisition Circular (DAC) 86-2

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: Defense Acquisition Circular (DAC) 86-2 amends the DoD FAR Supplement (DFARS) with respect to change of contracting activity designation; special prohibition on employment; Competition in Contracting Act of 1984; instructions for completion of DD Form 350; bidding procedures for overseas sources; acquisition planning; contracting out; excess personal property; Federal Supply Schedules; field pricing reports; use of DD Form 1155; follow-up on contract audit reports; component breakout; identification of sources of supply; restrictions on the employment of personnel for work on construction/service contracts (Alaska and Hawaii); subcontracting policies and procedures; procedures for Industrial Plant Equipment (IPE); editorial corrections; provides changes to DAR Supplement Number 6 (not a part of the 1986 edition of the DFARS); provides an agreement between representatives of the Department of Defense and General Electric Company on procedures with respect to state and local income and franchise taxes; and provides information regarding a determination by the U.S. Trade Representative.

EFFECTIVE DATE: March 15, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Lloyd. Executive Secretary, Defense Acquisition Regulatory Council, ODASD(P)/DARS, OASD(P&L), c/o Room 3D139, The Pentagon, Washington, DC 20301-3062, telephone (202) 697-7266.

SUPPLEMENTARY INFORMATION:

A. Background

The DoD FAR Supplement is codified in Chapter 2, Title 48 of the Code of Federal Regulations.

The December 31, 1986 revision of the CFR is the most recent edition of that title. It reflects amendments to the 1986 edition of the DoD FAR Supplement made by Defense Acquisition Circular 86–1.

Interested parties may submit proposed revisions to this Supplement directly to the DAR Council.

B. Public Comments

Notices of proposed rules were published in the **Federal Register** requesting Government agencies, private firms, associations, and the general public to submit comments to be considered in the formulation of the final rules.

DAC 86–2, Items III, V, VI, VII, VIII, IX, X, XI, XIII, XIV, XV, XVI, XVII, XIX, XX, XXI, and XXII

Public comments have not been solicited with respect to these revisions since such revisions (a) do not alter the substantive meaning of any coverage in the DFARS having a significant impact on contractors or offerors, or (b) do not have a significant effect beyond agency internal operating procedures; or compelling reasons required issuance of an interim rule without prior publication for public comment.

DAC 86–2, Item IV

On April 7, 1986, the DAR Council published a proposed rule in the **Federal Register** (51 FR 11760). Comments were received and considered by the DAR Council.

DAC 86–2, Item XII

A proposed rule was published in the **Federal Register** on October 20, 1986 (51 FR 37207), and public comments were solicited. After review of the public comments, the DAR Council approved the proposed rule as a final rule without change.

DAC 86–2, Item XVIII

An interim rule was published in the **Federal Register** on February 5, 1986 (51 FR 4501). As a result of the review of the public comments, no changes were deemed appropriate. Section 9069 of the FY 1987 Defense Appropriations Act enacts a similar requirement to those provisions covered by Section 8078 of the FY 1986 Defense Appropriations Act. The rule was extended to include: (a) Reference to section 9069 of the FY 1987 DoD Appropriations Act; (b) identification of FY 1987 contracts, and (c) reference to the FY 1987 unemployment rates in Alaska and Hawaii. It is not expected that these changes will result in different public comments from those originally submitted.

C. Regulatory Flexibility Act

DAC 86–2, Items III, V, VI, VII, VIII, IX, X, XI, XIII, XIV, XV, XVII, XIX, XX, XXI, and XXII

These revisions are not "significant revisions" as defined in FAR 1.501–1; i.e., they do not alter the substantive meaning of any coverage in the DFARS having a significant cost or administrative impact on contractors or offerors, or a significant effect beyond the internal operating procedures of the issuing agencies. Accordingly, and consistent with section 1212 of Pub. L. 98–525 and section 302 of Pub. L. 98–577 pertaining to publication of proposed regulations, solicitation of agency and public views on these revisions is not required. Since such solicitation is not required, the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) does not apply.

DAC 86–2, Item IV

The Department of Defense certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The rule requires as a contractual undertaking, that small business prime and subcontractors adhere to 10 U.S.C. 2408 and place the prescribed clause in subcontracts exceeding $25,000. The monetary impact of these requirements is not deemed significant within the meaning of the Act. Further, the underlying statute is intended for uniform application and does not exclude, nor allow DoD discretion to exclude, small businesses from its prohibitions. However, by not requiring that the prescribed clause be included in small purchases under FAR Part 13 and subcontracts not exceeding $25,000, the rule reduces contract complexity for small firms, consistent with the intent of the Act.

DAC 86–2, Item XII

The revision to DFARS 208.404–2(a) (S–70) does appear to have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). A final Regulatory Flexibility Analysis has been prepared and submitted to the Chief Counsel for Advocacy for the Small Business Administration.

DAC 86–2, Item XVI

This rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* This rule excludes commercial items sold in substantial quantities to the general public and priced at established catalog or market prices or awards made through full and open competition. Therefore, contracts will not have to identify the actual manufacturer, the national stock number, or the source of technical data for such items. In FY 1985, 59% of all contract actions were awarded to small businesses. DoD estimates that the total impact of this reduced workload on all businesses is a reduction of 700,250 hours annually. DoD estimates that the reduced workload applicable to all small businesses is a reduction of approximately 413,148 hours annually ($-700.250 \times 59\%$). Since DoD conducts business with approximately 40,000 small businesses per year, this reduction is considered insignificant.

DAC 86–2, Item XVIII

This rule will not have a significant impact on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because the change does nothing more than implement section 8078 of the FY 1986 Appropriations Act and section 9069 of the FY 1987 Appropriations Act. If this change impacts on small entities, it will impact only those small entities that have been awarded in FY 1986 and FY 1987 construction and services contracts calling for performance in whole or in part within the States of Alaska or Hawaii and then only if the unemployment rate for those states exceeds the national average. The number of small entities that meet this condition is considered to be insignificant in relation to the total number of small entities that do business with the Department of Defense.

D. Paperwork Reduction Act Information

DAC 86–2, Items III, IV, V, VI, VII, VIII, IX, X, XI, XIII, XIV, XV, XVII, XVIII, XIX, XX, XXI, and XXII

The Paperwork Reduction Act does not apply because these final rules do not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

DAC 86–2, Item XII

For this rule, it was estimated that there would be a reduction of 2,030,000 burden hours. A request for OMB clearance was submitted, and on December 19, 1986, OMB approved the estimated reduction of 2,030,000 burden

hours under OMB approval number 0704–0187.

DAC 86–2, Item XVI

It is estimated that the implementation of this coverage will result in a paperwork burden reduction of 700,250 hours. OMB approved the burden estimate on March 10, 1987, clearance number 0704–0214.

List of Subjects in 48 CFR Parts 202, 203, 204, 205, 206, 207, 208, 210, 213, 214, 215, 217, 222, 225, 233, 235, 244, 245, and 252.

Government procurement.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition Regulatory Council.

Defense Acquisition Circular

(No. 86–2)

March 15, 1987.

Unless otherwise specified, all DoD FAR Supplement and other directive material contained in this Defense Acquisition Circular is effective March 15, 1987.

Defense Acquisition Circular (DAC) 86–2 amends the DoD Federal Acquisition Supplement (DFARS) and prescribes procedures to be followed. The following is a summary of the amendments and procedures:

Item I—State and Local Income and Franchise Taxes, General Electric Company

The Corporate Administrative Contracting Officer, Defense Contract Administration Services Management Area, Hartford, and the General Electric Company have agreed on procedures to be used when requesting instructions with respect to or accounting for state and local income and franchise taxes. The agreement is attached to this DAC as an information item.

(Editorial note.—The agreement is not included in this document.)

Item II—Trade Agreements Acts Threshold

The United States Trade Representative has determined that the dollar threshold for determining whether purchases made during calendar year 1987 are subject to the Trade Agreements Act is $171,000. This threshold is effective on 1 January 1987.

Item III—Contracting Activities

Section 202.101 is revised to reflect the correct designation of the Senior Procurement Executive for the Air Force and changes to the listing of contracting activities for the Army.

Item IV—Special Prohibition on Employment

A new section 203.571 is added to implement section 941 of the Defense Acquisition Improvement Act of 1986 (Title IX, Pub. L. 99–500). A related clause is added to afford defense contractors notice of statutory prohibitions, give effect to statutory provisions requiring certain determinations by the Secretary of Defense, and provide an administrative remedy when a knowing violation of the statute occurs.

Item V—Competition in Contracting Act of 1984

FAC 84–5 and DAC 84–10 issued changes to the FAR and the DFARS to implement the Competition in Contracting Act of 1984 (CICA). FAC 84–13 issued further changes to the FAR. The following changes have been made to the DFARS to implement the FAC 84–13 changes:

Coverage is added to 204.601 to implement FAR 4.601 (a) and (d) which require, respectively, that agencies retain records of procurements and that they transmit procurement information to the Federal Procurement Data System. DFARS 205.201 (S–70) is revised to conform to the statutory threshold. DFARS 205.205(c) (1) and (2), and 215.1001 (b)(1) and (c) are deleted because they duplicate FAR coverage. The title to 206.302–1 is revised. DFARS 208.7006–3 is revised to require that the requiring department which submits a Military Interdepartmental Purchase Request to a contracting department shall provide supporting justification for use of other-than-full and open competition, when appropriate, rather than the justification required by FAR 6.303–2(a).

Item VI—Instructions for Completion of DD Form 350

Item XII of this DAC changes the procedures for issuing orders against optional Federal Supply Schedules (FSS); hence DFARS 204.671–5(d) is revised to recognize all FSS orders as competitive. The paragraph is further changed to reflect new FAR citations for exceptions to synopsis. Other changes are made to clarify or improve the sense of the instructions.

DFARS 204.671–5(c)(5)(ii)(F)(*5*), which was inadvertently omitted from the 1986 edition of the DFARS, is included in this DAC.

Item VII—Bidding Procedures for Overseas Sources

Section 205.203(b)(S–70) and 214.202–1(b) are added to provide bidders from overseas a 45-day bid period, consistent with user needs.

Item VIII—Acquisition Planning

Section 207.103 is revised to include a milestone chart, referenced in 207.103(i), which was not included with the initial publication of the DFARS.

Item IX—Nondevelopmental Items

The Defense Acquisition Improvement Act of 1987 (Pub. L. 99–500) amends Title 10 of the United States Code by adding Section 2325, Preference for Nondevelopmental Items, which contains provisions designed to increase the use of nondevelopmental items to fulfill requirements for items of supply. Section 207.105 and Part 210 are revised to provide guidance in conformance with the above-referenced legislation.

Item X—Contracting Out

Section 207.302(d)(2) is revised to provide that a full cost comparison study is required when activities performed involve 45 or less DoD civilian employees. This change is made to comply with section 1221, Pub. L. 99–661. The coverage is further changed to reflect the correct legislative reference.

Item XI—Excess Personal Property

Section 208.102 is added to indicate that DoD Inventory Control Point personnel are required to review excess personal property records before proceeding with a procurement action.

Item XII—Federal Supply Schedules

Section 208.404–2(a)(S–70) is revised to permit contracting officers to consider whether further competition obtained under an open market purchase would provide sufficient benefits to offset lower administrative costs and reduced contract placement leadtime associated with making a purchase against an optional Federal Supply Schedule when such schedules are available.

Item XIII—Use of DD Form 1155 (Anti-Kickback Procedures)

Section 213.505–2(S–73)(1) is revised by adding paragraph (1iii) to prescribe use of FAR clause 52.203–7, Anti-Kickback Procedures.

Item XIV—Field Pricing Reports

Section 215.805(c)(1)(S–70) is revised to provide procedures for expediting the field pricing review process.

Item XV—Follow-Up on Contract Audit Reports

Section 215.874 is added to reference DoD Directive 7640.2 for policy on contract audit follow-up reports.

Item XVI—Component Breakout

Sections 217.7202–1(c) and 217.7202–4(b) are revised to clarify guidelines regarding component breakout.

Item XVII—Identification of Sources of Supply

Section 1231 of Pub. L. 98–525, as amended by section 928 of Pub. L. 99–591, requires delivery of source information under DoD supply contracts. Section 217.7204 is revised to stipulate that the coverage applies to all contracts requiring delivery of supplies, other than commercial items sold in substantial quantities to the general public and priced at established catalog or market prices or awarded through full and open competition. A related change is made to the clause at 252.217–7270. These changes are effective on all contracts entered into on or after April 15, 1987.

Item XVIII—Restrictions on the Employment of Personnel for Work on Construction/Service Contracts (Alaska and Hawaii)

DAC 86–1, dated August 18, 1986, issued a new Subpart at 222.72 and a clause at 252.222–7002 to implement section 8078 of the FY 1986 Defense Appropriations Act, with respect to employment of personnel in Alaska and Hawaii for work on construction contracts awarded in FY 1986. Subpart 222.72 is revised to add section 9069 of the 1987 Defense Appropriations Act for contracts awarded in FY 1987. The clause at 252.222–7002 remains unchanged.

Item XIX—Subcontracting Policies and Procedures

DFARS 244.304(b)(1) is revised to clarify contracting officer responsibilities in reviewing prime contractor administration of sucontractor progress payments.

Item XX—Procedures for Industrial Plant Equipment (IPE)

DFARS 245.608–71(g) is revised by deleting the requirement for the Plant Clearance Officer to assure that a completed DD Form 1342 is submitted to DIPEC reporting final disposition of surplus IPE. Final disposition of IPE that is determined to be excess to agency ownership, but not to its requirements, may be sold by GSA to the incumbent contractor. IPE sold in this manner shall be reported to DIPEC in accordance with individual agency instructions. Since DIPEC is no longer collecting data on final disposal of IPE, except for that sold by GSA, section 245.7102–6(b)(9) is deleted.

Item XXI—DAR Supplement No. 6

DAR Supplement No. 6 is revised to state that the definitions are applicable only to Supplement 6, and to clarify the definition of "actual manufacturer".

Note.—DAR Supplement No. 6 is not a part of the 1986 edition of the DFARS. It may be purchased separately from the Government Printing Office.]

Item XXII—Editorial Changes

Table of Contents: Subpart 203.7 is added; the title to Subpart 219.1 is corrected; the designation of the Armed Services Pricing Manual is corrected.

Section 208.7003–1 is revised to reflect the correct date of the referenced DoD Instruction, and to delete reference to the NAVSUPINST which has been canceled.

Section 208.7003–6 is revised to change the word "Procuring" to "Contracting".

Section 213.505–2(S–73) is revised to reflect in paragraph (1)(1i) the correct titles for the referenced clauses FAR 52.209–1 and 52.209–2.

Section 215.170(c) is revised to change the referenced paragraph 215.173 to read 215.170.

Section 225.302(S–72)(2)(i) is revised to reflect the correct designation of OASN(S&L), International Programs, listed as an authority to make determinations for the Department of the Navy.

Sections 225.7301(b) and 225.7305(f) are revised to reflect the correct title for the Security Assistance Management Manual.

Section 225.7304(c)(1)(i)(C) is revised to reflect the correct paragraph number for the International Traffic in Arms Regulations (ITAR).

Section 233.214 is revised to reflect the correct number for the referenced paragraph.

Section 245.600 is revised to add the title "Scope of Subpart."

Table of Contents, Part 252, is revised to reflect the correct title for 252.217–7213, and to mark 252.217–7220 as "Reserved."

Adoption of Amendments

Therefore the DoD FAR Supplement is amended as set forth below.

1. The authority for 48 CFR Parts 202, 203, 204, 205, 206, 207, 208, 210, 213, 214, 215, 217, 222, 225, 233, 244, 245, and 252 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

Table of Contents

2. The Table of Contents is amended by substituting in the listing entitled "MANUALS" the words "Armed Services Pricing Manual (1986)" for the words "Manual for Contract Pricing (ASPM No. 1) (15 SEP 75)".

PART 202—DEFINITIONS OF WORDS AND TERMS

202.10 [Amended]

3. Section 202.101 is amended by substituting in the undesignated paragraph entitled "Senior Procurement Executive" at the designation for the Air Force the word "(Acquisition)" for the words "(Research Development and Logistics)"; paragraph (a) is amended by removing from the undesignated paragraph reading "For the Army" the entries reading "Office of the Assistant Chief of Staff for Information Management," "Office of the Director, Contracting and Production, ODCSLOG," and "U.S. Army Electronics Research and Development Command," by revising the entry reading "Office of the Deputy Chief of Staff for Procurement and Production Headquarters, U.S. Army Materiel Command" to read "Office of the Deputy Chief of Staff for Procurement, Headquarters, U.S. Army Materiel Command" and adding the entry for "U.S. Army Laboratory Command"; the undesignated paragraph reading "National Guard Bureau" is amended by revising the entry reading "Office of the Chief of Engineers" to read "U.S. Army Corps of Engineers."

PART 203—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

4. Sections 203.571 through 203.571–5 are added to read as follows:

203.571 Employment prohibitions on persons convicted of fraud or other Defense contract-related felonies.

203.571–1 Scope.

This subpart prescribes policies and procedures to implement 10 U.S.C. 2408 which prohibits defense contractors from employing in a managerial or supervisory capacity on any defense contract, persons convicted of fraud or any other felony arising out of a contract with the Department of Defense, or allowing those persons to serve on the contractor's board of directors. The statutory prohibitions extend for a period, as determined by the Secretary of Defense, of not less than one year from the date of conviction.

203.571–2 Definitions.

"Arising out of a contract with the Department of Defense", as used in this subpart, means any act in connection

with (a) attempting to obtain, or (b) obtaining, (c) performing, a contract or subcontract of any agency, department, or component of the Department of Defense.

"Conviction of fraud or any other felony", as used in this subpart, means any conviction for fraud or a felony in violation of state or Federal criminal statutes, whether entered on a verdict or plea, including a plea of *nolo contendere*, for which sentence has been imposed.

203.571-3 Policy.

A contractor shall not allow a person, convicted of fraud or any other felony arising out of a contract with the Department of Defense, to serve in a management or supervisory capacity on any defense contract or subcontract or upon its board of directors, for a period of one year from the date of conviction or for the period of any resultant debarment of the convicted person, whichever is longer.

203.571-4 Reporting.

When a defense contractor is found to have violated the prohibition in 203.571-3 above, a report shall be prepared and forwarded in accordance with agency procedures (see DoD Directive 7050.5).

203.571-5 Contract clause.

The contracting officer shall insert the clause at 252.203-7001, Special Prohibition on Employment, in all solicitation and contracts other than those entered into using the small purchase procedures of FAR Part 13.

PART 204—ADMINISTRATIVE MATTERS

5. Section 204.601 is added to read as follows:

204.601 Record requirements.

(a) The Defense Acquisition Management Data System (DAMDS), meets the record retention requirements of FAR 4.601.

(d) The information required to be transmitted to the Federal Procurement Data System shall be transmitted by Washington Headquarters Service via the DAMDS based on feeder reports (DD Forms 350 and 1057) submitted to it by the Departments.

204.671-4 [Amended]

6. Section 204.671-4 is amended by inserting in paragraph (a) between the number "350" and the word "shall" the words ", or electronic equivalent,".

7. Section 204.671-5 is amended by removing the last sentence of paragraph (b)(13)(xi); by removing in the third sentence of paragraph (d) the number "8"; by inserting in the last sentence of paragraph (d) before the listing of codes between the number "6" and the comma the words "or 8"; by revising the list of codes in the introductory text of paragraph (d); by revising paragraph (d)(2); by inserting in the second sentence of paragraphs (d)(7) and (d)(8) between the number "6" and the comma the words "or 8"; by substituting in the seventh sentence of paragraph (d)(9) the letter "e" in lieu of the letter "f"; by adding in paragraph (d)(10) under Code 1A between the word "when" and the word "action" the word "the"; by substituting in paragraph (d)(10) under Code 1B "FAR 6.302-1(a)(2)(ii)" in lieu of "FAR 6.302-1(b)(2)"; by substituting in paragraph (d)(10) under Code 1C "FAR 6.302-1(a)(2)(i)" in lieu of "FAR 6.302-1(b)(3)"; by substituting in paragraph (d)(10) under Code 1D "FAR 6.302-1(b)(2)" in lieu of FAR 6.302-1(b)(4)"; by substituting in paragraph (d)(10) under Code 1E "FAR 6.302-1(b)(3)" in lieu of "FAR 6.302-1(b)(5)"; by substituting in paragraph (d)(10) under Code 1F "FAR 6.302-1(b)(4)" in lieu of "FAR 6.302-1(b)(6)"; by substituting in paragraph (e)(1)(ii) the FAR citation "19.001" in lieu of "19.101"; and by inserting in paragraph (e)(9)(iv) between the word "the" and the word "action" the word "contract"' to read as follows:

204.671-5 Instructions for completion of DD Form 350.

* * * * *

(d) * * *

C1, the code indicates the synopsis action taken by the contracting office;

C2, if C1 is coded 1, leave C2 blank; if C1 is coded 2, enter the code that accurately reflects the pertinent exception reason;

* * * * *

(2) *Item C2, Reason Not Synopsized.* Enter the applicable code as follows (see FAR 5.202):

DD 350 Code	FAR 5.202 Exception Reason
A	1. Classified/National security.
B	2. Urgency.
C	3. Foreign Government/International Organization.
D	4. Source set by statute.
E	5. Utility Services one source.
F	6. Order against requirements contract.
G	7. Proposal under the Small Business Innovation Development Act of 1982.
G	8. Unsolicited research proposal.
H	9. Perishable subsistence.
I	— Reserved.
J	10. Brand name resale.
K	11. Action under existing contract previously synopsized.
L	— Head of Agency determination.
Z	12. Made and performed outside U.S., possessions and Puerto Rico.
Z	— Original estimate less than $25,000, or original exemption no longer coded.

* * * * *

PART 205—PUBLICIZING CONTRACT ACTIONS

205.201 [Amended]

8. Section 205.201 is amended by substituting in the title of paragraph (S-70) the words "$10,000 or Less" for the words "Less Than $10,000"; and by substituting in the text the phrase "$10,000 or less" for the phrase "less than $10,000".

9. Section 205.203 is added to read as follows:

205.203 Publicizing and response time.

(b) (S-70) When requested by a source located in a participating country or a designated country as defined in Part 225, the contracting officer shall allow at least 45 days response time for receipt of bids or proposals from the date of issuance of the solicitation if this is consistent with Government requirements.

205.205 [Removed]

10. Section 205.205 is removed.

PART 206—COMPETITION REQUIREMENTS

206.302-1 [Amended]

11. Section 206.302-1 is amended by adding to the title the words "and No Other Supplies or Services Will Satisfy Agency Requirements."; and by revising in paragraph (c)(S-70) the FAR reference reading "6.302-1(b)(6)" to read "6.302-1(b)(4)".

PART 207—ACQUISITION PLANNING

207.103 [Amended]

12. Section 207.103(i) is amended by adding at the end of the section an Illustrative Milestone Chart Format.

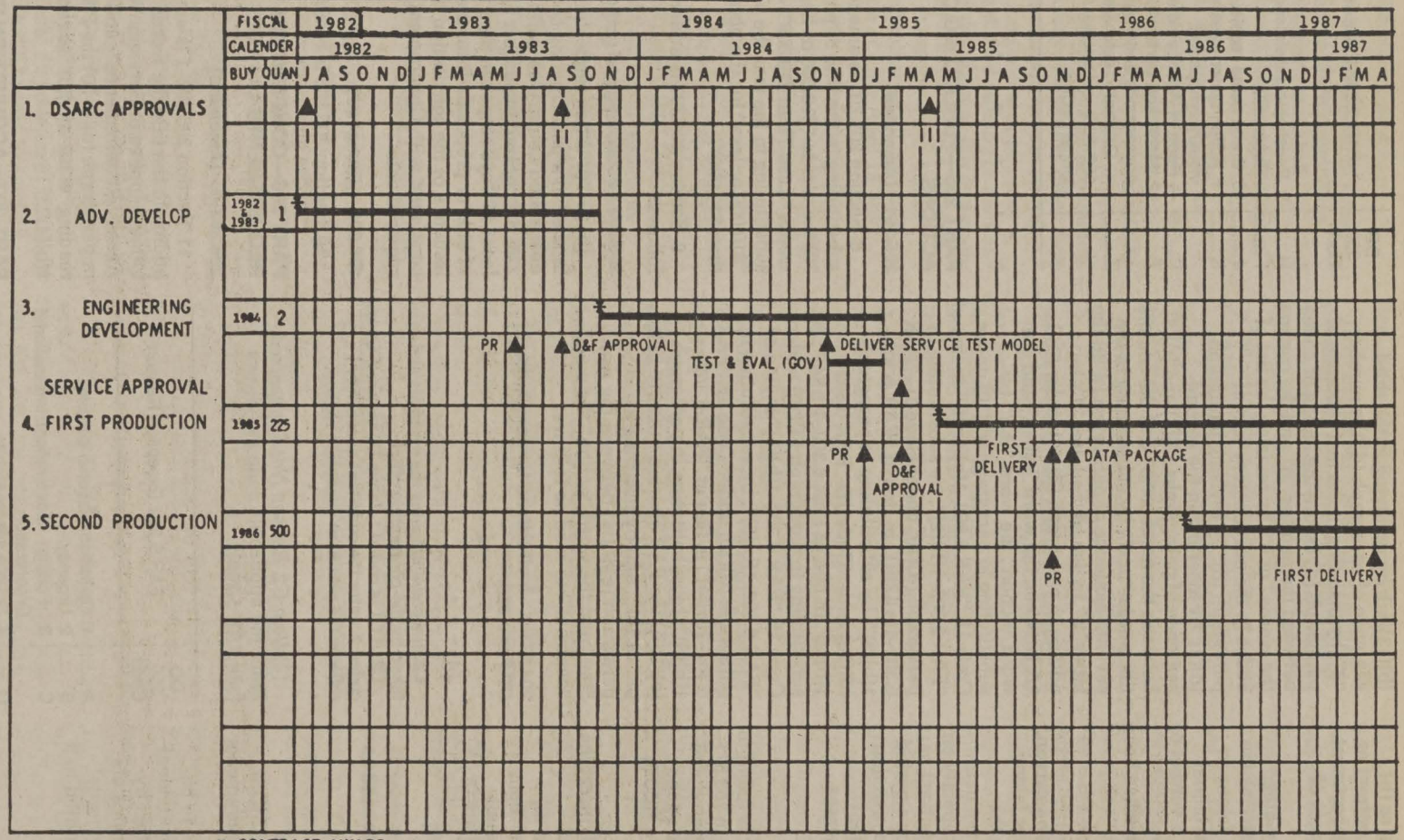
BILLING CODE 3810-01-M

BILLING CODE 3810-01-C

ILLUSTRATIVE MILESTONE CHART FORMAT

ACQUISITION PLAN NO. _____

ACQUISITION ITEM _____ ACQUISITION PLANNING CHART



* CONTRACT AWARD

13. Section 207.105 is amended by redesignating paragraph (b)(5) as paragraph (b)(2); by redesignating paragraph (b)(6) as paragraph (b)(5); by adding new paragraph (b)(6); and by redesignating paragraph (b)(13) as paragraph (b)(12), to read as follows:

207.105 Contents of written acquisition plans.

* * * * *

(b)(6) *Product descriptions.* For development acquisition, describe the market research efforts planned or undertaken to identify nondevelopmental items (see 210.001) that could satisfy the acquisition objectives.

14. Section 207.302 is amended by substituting in the first sentence of paragraph (d)(2) the number 45 for the number 40; and by revising the parenthetical sentence in paragraph (d)(2) to read as follows:

207.302 General.

(d) * * *

(2) * * * (See section 1221, Pub. L. 99-661.)

* * * * *

PART 208—REQUIRED SOURCES OF SUPPLIES AND SERVICES

15. A new Subpart 208.1, consisting of Section 208.102, is added to read as follows:

Subpart 208.1—Excess Personal Property

208.102 Policy.

In accordance with Department of Defense Directive (DoD) 4140.39, Dod inventory control points are required to check applicable disposal system management information records to determine if suitable excess or surplus assets are available and can meet customer requirements in a timely and economical manner before proceeding with purchase actions. The contracting officer may assume that a check of the disposal system records has been made by requirements personnel prior to their issuing of the purchase request.

16. Section 208.404-2 is revised to read as follows:

208.404-2 Optional use.

(a)(S-70) As specified in FAR 8.001(a), optional schedules are preferred sources of supplies and services. Accordingly, contracting officers should make maximum use of optional schedules in meeting requirements for supplies and services. Further competition with respect to optional schedules is not required. However, if, in the contracting officer's judgment, the introduction of competition from nonschedule sources would be in the best interest of the Government in terms of quality, responsiveness, or costs, other procedures may be used.

208.7003-1 [Amended]

17. Section 208.7003-1 is amended by revising the date of Department of Defense Instruction 4115.1 to read "September 1, 1972"; and by removing the parenthetical reference at the end of the sentence.

208.7003-6 [Amended]

18. Section 208.7003-6 is amended by substituting in the second sentence the word "Contracting" for the word "Procuring".

19. Section 208.7006-3 is amended by revising paragraph (a); by adding paragraphs (b) and (c); and by redesignating the existing paragraph (b) as paragraph (d), to read as follows:

208.7006-3 Justification and approvals and determinations and findings.

(a) Coordinated procurement shall not be used by Departments to avoid FAR Part 6 requirements concerning full and open competition (see FAR 6.002).

(b) When a Requiring Department requests that a Contracting Department obtain supplies or services by contracting using other than full and open competition (see FAR Subpart 6.3):

(1) The Requiring Department shall provide:

(i) The complete certified documentation required by FAR 6.303-2(b) (which documentation shall be approved at a level within the Requiring Department equivalent to the appropriate level in FAR 6.304 prior to submitting the MIPR to the Contracting Department);

(ii) When requested by the Contracting Department Contracting Officer, any additional supporting data (e.g., the results of any market survey conducted or the reason why none was conducted, actions that will be taken by the Requiring Department to overcome barriers to competition in the future);

(iii) The executed Determination and Findings (D&F) specified in FAR 6.302-7(c)(1), when applicable; and

(iv) Two copies of all documentation and D&F's with the MIPR or other purchase request.

(2) The Contracting Department Contracting Officer shall prepare the justification and obtain the approval required by FAR 6.303 and 6.304.

(c) When a Requiring Department recommends that a Contracting Department obtains supplies or services by contract using full and open competition after excluding a particular source (see FAR 6.202):

(1) The Requiring Department shall provide all data required by FAR 6.202(b)(2); and

(2) The Contracting Department shall prepare the Determination and Findings required by FAR 6.202(b)(1).

* * * * *

PART 210—SPECIFICATIONS, STANDARDS, AND OTHER PURCHASE DESCRIPTIONS

20. Section 210.001 is amended by adding the following definition in alphabetical sequence to read as follows:

210.001 Definitions.

* * * * *

"Nondevelopmental item" means;

(a) Any item of supply that is available in the commercial marketplace;

(b) Any previously-developed item of supply that is in use by a department or agency of the United States, a State or local government, or a foreign government with which the United States has a mutual defense cooperation agreement;

(c) Any item of supply decribed in (a) or (b) above that requires only minor modification in order to meet the requirements of the contracting agency;or

(d) Any item of supply that is currently being produced that does not meet the requirements of (a), (b), or (c) above solely because the item is not yet in use or is not yet available in the commercial marketplace.

21. Section 210.002 is added to read as follows:

210.002 Policy.

(S-70) Pursuant to 10 U.S.C. 2325, it is the policy of the Department of Defense to fulfill requirements for items of supply through the acquisition of nondevelopmental items to the maximum practicable extent.

PART 213—SMALL PURCHASES AND OTHER SIMPLIFIED PURCHASE PROCEDURES

22. Section 213.505-2(S-73)(1) is amended by substituting in paragraph (1i) after the words "FAR 52.209-1" the words "Qualified Requirements" for the words "Qualified Products—End Items"; by substituting in paragraph (1i) after the words "FAR 52.209-2" the words "Qualified Requirements" for the words "Qualified Products"; by inserting in paragraph (1ii) the acronym "FAR" before the referenced clauses 52.209-3

and 52.209–4; and by adding paragraph (1iii) to read as follows:

213.505–2 Agency order forms in lieu of optional Forms 347 and 348.

* * * * *

(S–73) * * *

(1) * * *

(1iii) In accordance with FAR 3.502–3, insert the clause at FAR 52.203–7, Anti-Kickback Procedures.

PART 214—SEALED BIDDING

23. Section 214.202–1 is amended by adding paragraph (b) to read as follows:

214.202–1 Bidding time.

* * * * *

(b) When requested by a source located in a participating country or a designated country as defined in Part 25, the contracting officer shall provide for a 45-day bidding period if this is consistent with the Government's requirements.

PART 215—CONTRACTING BY NEGOTIATION

215.170 [Amended]

24. Section 215.170 is amended by substituting in the second sentence of paragraph (c) "paragraph 215.170" in lieu of "paragraph 215.173."

25. Section 215.805–5 is amended by revising paragraphs (c)(1)(S–70) (A) and (B) to read as follows:

215.805–5 Field pricing support.

* * * * *

(c)(1)(S–70) * * *

(A) The Plant Representative/Administrative Contracting Officer (Plant Rep/ACO) is the team manager for all contracting officer requests for field pricing support. The contracting officer shall send all requests for field pricing support to the cognizant field contract administration activity; generally, the Plant Rep for the Services and the ACO for DCAS(DLA). To expedite the pricing review process, these requests shall be marked in bold letters on the mailing envelope "FIELD PRICING REQUEST". On urgent requests, provide facismile numbers in the requests to facilitate sending the complete report. A copy of the request will also be sent to the cognizant audit activity.

(B) When the contracting officer knows in advance that field pricing support will be required, the contracting officer shall provide the cognizant Plant Rep/ACO and auditor a copy of the solicitation. If the contracting officer requires the contractor to provide copies of the proposal directly to the Plant Rep/ACO and auditor, a field pricing request shall be issued along with the solicitation. In this event, the contracting officer shall include in the field pricing request, the approximate date the proposal will be provided by the contractor, and identify those specific areas for which field pricing support is required.

215.873 [Reserved]

26. Section 215.873 is added and marked "Reserved."

27. Section 215.874 is added to read as follows:

215.874 Follow-up on contract audit reports.

It is policy of the Department of Defense for contracting officers to make the best possible use of contract audit advice. The DoD policy on contract audit follow-up is contained in Department of Defense Directive 7640.2, "Policy for Follow-Up on Contract Audit Reports."

215.1001 [Amended]

28. Section 215.1001 is amended by removing paragraphs (b)(1) and (c).

PART 217—SPECIAL CONTRACTING METHODS

217.7202–1 [Amended]

29. Section 217.7202–1 is amended by removing the second sentence of paragraph (c).

30. Section 217.7202–4 is amended by substituting in the third sentence of paragraph (b) the word "net" for the word "overall"; by substituting in the fourth sentence of paragraph (b) the word "net" for the word "overall"; and by adding a sentence at the end of paragraph (b) to read as follows:

217.7202–4 Breakout guidelines.

* * * * *

(b) * * * Breakout will normally not be justified for a component whose cost is not expected to exceed $1 million for the current year's requirement.

31. Section 217.7204 is amended by inserting in the first sentence of paragraph (a) between the word "supplies" and the word "shall" a comma and the words "other than commercial items sold in substantial quantities to the general public and priced at established catalog or market prices or awarded through full and open competition,"; by removing in paragraph (a)(1) between the word "or" and the word "all" the word "of"; by adding paragraph (b); and by redesignating the existing paragraphs (b) and (c) as paragraphs (c) and (d), to read as follows:

217.7204 Identification of sources of supply.

* * * * *

(b) This section does not apply to a contract that requires delivery of supplies that are commercial items sold in substantial quantities to the general public if the contract—

(1) Provides for the acquisition of such supplies at established catalog or market prices; or

(2) Is awarded through the use of full and open competition.

* * * * *

PART 222—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

32. The title to Subpart 222.72 is amended by removing the words "Section 8078, 1986 Defense Appropriations Act—".

222.7200 [Amended]

33. Section 222.7200 is amended by inserting in paragraph (a) between the word "Act" and the word "requires" a comma and the words "Pub. L. 98–190, and Section 9069 of the 1987 Defense Appropriations Act, Pub. L. 99–591,"; by substituting in paragraph (a) the word "require" for the word "requires"; by inserting in paragraph (a) after the words "FY 1986" the words "and FY 1987"; and by inserting in paragraphs (b) and (c) after the words "FY 1986" the words "and FY 1987".

222.7201 [Amended]

34. Section 222.7201 is amended by substituting "the Under Secretary of Defense for Acquisition" in lieu of the Assistant Secretary of Defense for Acquisition and Logistics".

PART 225—FOREIGN ACQUISITION

225.302 [Amended]

35. Section 225.302 is amended by substituting in paragraph (S–72)(2)(i) in the listing for the Department of the Navy the designation "OASN (S&L), Director, International Programs" in lieu of the designation "OASN (S&L), CBM".

36. Section 225.7301 is amended by revising paragraph (b) to read as follows:

225.7301 Applicable statutory provisions.

* * * * *

(b) *Contractor preference for direct commercial sales.* Dod policies and procedures with respect to contractor preference for direct commercial sales are contained in the Security Assistance

Management Manual (DoD 5105.38–M), Chapter 6, Section II, entitled Contractor Preference for Direct Commercial Sales, published by the Defense Security Assistance Agency.

225.7304 [Amended]

37. Section 225.7304 is amended by substituting in paragraph (c)(1)(i)(C) the number "126.8" in lieu of the number "123.16".

225.7305 [Amended]

38. Section 225.7305 is amended by substituting in the first sentence of paragraph (f) the parenthetical title "(Security Assistance Management Manual)" in lieu of "(Military Assistance and Sales Manual)".

PART 233—PROTEST, DISPUTES, AND APPEALS

233.214 [Amended]

39. Section 233.214 is amended by substituting the reference "233.213(a)" in lieu of "233.013(a)".

PART 244—SUBCONTRACTING POLICIES AND PROCEDURES

40. Section 244.304 is amended by removing the words "advance payments, progress payments," from paragraph (b)(1)(xvi), by removing the word "and" from paragraph (b)(1)(xx); by removing the period at the end of paragraph (b)(1)(xxi) and inserting a semi-colon and the word "and"; and by adding a new paragraph (b)(1)(xxii) to read as follows:

244.304 Surveillance.

* * * * *

(b) * * *

(1) * * *

(xxii) Management control systems, including internal audit procedures, to administer progress payments to subcontractors.

* * * * *

PART 245—GOVERNMENT PROPERTY

41. Section 245.608–71 is amended by revising paragraph (g) to read as follows:

245.608–71 Procedures for industrial plant equipment.

* * * * *

(g) The plant clearance officer shall, when IPE is transferred use-to-use or use-to-storage within DoD, assure that a copy of the completed shipping document is submitted to DIPEC. Sales of IPE that is excess to ownership but not to DoD requirements that is sold by GSA shall be reported to DIPEC in accordance with agency instructions.

245.7102–6 [Amended]

42. Section 245.7102–6 is amended by removing paragraph (b)(9).

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

43. Section 252.203–7001 is added to read as follows:

252.203–7001 Special prohibition on employment.

As prescribed in 203.571–5, insert the following clause:

Special Prohibition on Employment (Apr 1987)

(a) *Definitions.* "Arising out a contract with the Department of Defense", as used in this clause, means any act in connection with (1) attempting to obtain, (2) obtaining, or (3) performing a contract or subcontract of any agency, department, or component of the Department of Defense.

"Conviction of fraud or any other felony", as used in this clause, means any conviction for fraud or a felony in violation of state or Federal criminal statutes, whether entered on a verdict or pleas, including a plea of *nolo contendere*, for which sentence has been imposed.

(b) Section 941, Title IX, Pub. L. 99–500 (10 U.S.C. 2408) prohibits a person who is convicted of fraud or any other felony arising out of a contract with the Department of Defense from working in a management or supervisory capacity or any defense contract, or serving on the board of directors of any defense contractor, for a period, as determined by the Secretary of Defense, of not less than one (1) year from the date of conviction. Defense contractors are subject to a criminal penalty of not more than $500,000 if they are convicted of knowingly employing a person under a prohibition or allowing such person to serve on their board of directors.

(c) The Contractor agrees not to knowingly employ any person, convicted of fraud or any other felony arising out of a contract with the Department of Defense, in a management or supervisory capacity on any Department of Defense contract or subcontract or allow such person to serve on its board of directors from the date the Contractor learns of the conviction until one (1) year has expired from the date of conviction. However, if the person has also been debarred pursuant to FAR Subpart 9.4, the above prohibition shall extend for the period of debarment, but in no event shall the prohibition be less than one (1) year from the date of the conviction.

(d) If the Contractor knowingly employs such a convicted person in a management or supervisory capacity on any defense contract or subcontract or knowingly allows such person to serve on its board of directors within the prohibited period, the Government may consider, in addition to the criminal penalties contained in Section 941 of Pub. L. 99–500, other available remedies, such as suspension or debarment, and may direct the cancellation of this contract at no cost to the Government, or terminate this contract for default.

(e) The Contractor agrees to include the substance of this clause, including this paragraph (e), appropriately modified to reflect the identity and relationship of the parties, in all subcontracts exceeding $25,000.

[End of clause]

252.217–7220 [Removed and Reserved]

44. Section 252.217–7220 is amended by removing the text and marking the section "Reserved."

45. Section 252.217–7270 is amended by changing the reference in the introductory paragraph to read "217.7204(c)"; by changing the date of the clause to read "(FEB 1987)"; by designating the existing paragraph of the clause as paragraph (a); and by adding paragraph (b) to the clause to read as follows:

252.217–7270 Identification of sources of supply.

* * * * *

(b) The requirements of paragraph (a) do not apply to any items that are commercial items sold in substantial quantities to the general public if—

(1) The items are priced using established catalog or market prices; or

(2) The items are acquired through the use of full and open competition.

[End of clause]

46. DAR Supplement No. 6 is amended as follows:

(a) Section S6–103 is revised to read as follows:

S6–103 Definitions.

The following definitions are applicable to this supplement only.

(b) Section S6–103.3 is revised to read as follows:

S6–103.3 Actual Manufacturer. An individual, activity, or organization that performs the physical fabrication processes that produce the actual part or other items of supply. The actual manufacturer *must* produce the replenishment part in-house. The actual manufacturer may or may not be the Design Control Activity.

(c) Section S6–103.9 is revised; Section S6–103.10 is added; and the existing Sections S6–103.10, S6–103.11, and S6–103.12 are redesignated S6–103.11, S6–103.12, and S6–103.13, to read as follows:

S6–103.9 Design Control Activity. A contractor or government activity having responsibility for the design of a given part, and for the preparation and currency of engineering drawings and other technical data for that part. The design control activity may or may not be the actual manufacturer.

S6–103.10 Manufacture. The physical fabrication process that produces a part, or other item of supply. The physical fabrication processes include, but are

not limited to machining, welding, soldering, brazing, heat treating, braking, riveting, pressing, chemical treatment, etc.

* * * * *

[Editorial note: DAR Supplement No. 6 is not a part of the 1986 edition of the DoD FAR Supplement.]

[FR Doc. 87-20913 Filed 9-14-87; 8:45 am]

BILLING CODE 3810-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1801, 1802, 1803, 1804, 1805, 1810, 1812, 1813, 1815, 1816, 1822, 1823, 1832, 1842, 1845, 1847, 1852, and 1870

[NASA FAR Supplement Directive 85-8]

Miscellaneous Changes to NASA FAR Supplement

AGENCY: Office of Procurement, Procurement Policy Division, NASA.

ACTION: Final rule.

SUMMARY: This document amends the NASA Federal Acquisition Regulation Supplement (NFS) to reflect a number of miscellaneous changes implementing higher level issuances dealing with NASA internal or administrative matters, and includes two items previously publicized as proposed rules.

EFFECTIVE DATE: September 15, 1987.

FOR FURTHER INFORMATION CONTACT: W.A. Greene, Procurement Policy Division (Code HP), Office of Procurement, NASA Headquarters, Washington, DC 20546, Telephone: (202) 453-2119.

SUPPLEMENTARY INFORMATION:

Background

The major changes involve: (1) Transferring contracts, (2) field pricing reports, (3) subcontract price redetermination, (4) letter contract approval, (5) Standard Form 99 reporting, (6) withholding under construction contracts, (7) plant clearance costs, (8) financial reporting of government property, and (9) consolidation of five provisions and clauses developed by NASA field installations.

Impact

The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. The regulations noted above as background Items 1-7 fall in the exempted category.

Item 8 was published (52 FR 26541) on July 15, 1987 as a proposed rule. No public comment was received. Item 9 was published (52 FR 25417) on July 7, 1987. Two comments were received, both of which were accepted. Specifically, institutions of higher education have been exempted from the requirements of a new "Technical Direction" contract clause, and the clause itself has been modified to avoid the potential for conflict with the Federal Acquisition Regulation "Notification of Changes" clause.

NASA certifies that this regulation will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The regulation imposes no burdens on the public within the ambit of the Paperwork Reduction Act, as implemented at 5 CFR Part 1320, except for background Item 8 to which approval number 2700-0017 applies.

List of Subjects in 48 CFR Parts 1801, 1802, 1803, 1804, 1805, 1810, 1812, 1813, 1815, 1816, 1822, 1823, 1832, 1842, 1845, 1847, 1852, and 1870

Government procurement.

S.J. Evans,

Assistant Administrator for Procurement.

1. The authority citation for 48 CFR Parts 1801, 1802, 1803, 1804, 1805, 1810, 1812, 1813, 1815, 1816, 1822, 1823, 1832, 1842, 1845, 1847, 1852, and 1870 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

PART 1801—FEDERAL ACQUISITION REGULATIONS SYSTEM

2. Part 1801 is amended by revising Subparts 1801.1, 1801.2, 1801.3, 1801.4, 1801.6, and 1801.7 to read as follows:

* * * * *

Subpart 1801.1—Purpose, Authority, Issuance

Sec.

Subpart 1801.2—Administration

Subpart 1801.3—Agency Acquisition Regulations

Subpart 1801.4—Deviations From the FAR and NASA FAR Supplement

Subpart 1801.6—Contracting Authority and Responsibilities

Subpart 1801.7—Determinations and Findings

Subpart 1801.1—Purpose, Authority, Issuance

1801.101 Purpose.

The NASA FAR Supplement establishes agency-wide uniform policies and procedures that implement and supplement the FAR.

1801.102 Authority.

Under the following authorities, the Administrator has delegated to the Assistant Administrator for Procurement authority to prepare, issue, and maintain the NASA FAR Supplement:

(a) The National Aeronautics and Space Act of 1958, as amended (Pub. L. 85-568; 42 U.S.C. 2451 *et seq.*);

(b) 10 U.S.C. Chapter 137;

(c) Other statutory authority; and

(d) FAR Subpart 1.3.

1801.103 Applicability.

The NASA FAR Supplement applies to all acquisitions as defined in FAR Part 2 except where expressly excluded in the FAR or this supplement.

1801.104 Issuance.

1801.104-1 Publication and code arrangement.

(a) The NASA FAR Supplement is published in—

(1) The daily issue of the **Federal Register**;

(2) Cumulated form in the Code of Federal Regulations (CFR); and

(3) A separate loose-leaf edition adaptable for either interleaving with the FAR or filing separately.

(b) The NASA FAR Supplement is issued as Chapter 18 of Title 48 CFR, and it parallels the FAR in format, arrangement, and numbering system. Thus, a formal citation to this paragraph would appear as 48 CFR 1801.104-1(b).

1801.104-2 Arrangement of regulations.

(a) *General.* The NASA FAR Supplement conforms with the arrangement and numbering system prescribed by FAR 1.104. The numbering illustrations at FAR 1.104-2(b) are equally applicable to the NASA FAR Supplement; users are reminded that in the loose-leaf edition of the supplement, NASA's assigned CFR chapter number 18 will appear to the left of the applicable part number separated by a dash, e.g., 1815.402-1. However, in 48 CFR Chapter 18 the dash has been removed; therefore, the first four digits preceding the point refer to the CFR part number.

(b) *Numbering.* (1) All coverage in the NASA FAR Supplement that is unique to NASA will use part, subpart, section, and subsection numbers 70 through 89 (see 1801.303-70):

(i) Part 1870 is the first part number NASA can use for adding coverage that neither implements nor supplements the FAR; i.e., there is no appropriate subject heading within the 53 parts of the FAR under which the coverage could be located.

(ii) Subpart 1815.70 is the first subpart number NASA can use to supplement FAR Part 15.

(iii) Section 1815.470 is the first number NASA can use to supplement FAR Subpart 15.4.

(iv) Subsection 1815.402-70 is the first number NASA can use to supplement FAR 15.402.

(v) Subsection 1815.402-170 is the first number NASA can use to supplement FAR 15.402.1.

(2) All coverage in the NASA FAR Supplement other than that identified with a 70 or higher number, as described in subparagraph (b)(1) above, implements the FAR and will bear the identical number and title of the FAR segment being implemented down to the subsection level; e.g., 1815.402-1 implements FAR 15.402-1. Below this level (paragraph, subparagraph (see FAR 1.104-2(b)(2)), NASA FAR Supplement alphanumerics will not correlate with FAR alphanumerics.

(c) *References and citations.* (1) Unless otherwise stated, cross references indicate parts, subparts, sections, subsections, paragraphs, subparagraphs, or subdivisions of this regulation.

(2) This Regulation may be referred to as the National Aeronautics and Space Administration Federal Acquisition Regulation Supplement, the NASA FAR Supplement, or, for the purpose of brevity, the NFS.

(d) *Provisions and clauses.* See FAR Subpart 52.1 and Subpart 1852.1 for information regarding the numbering and dating of provisions and clauses.

1801.104-3 Copies.

Copies of the NASA FAR Supplement in **Federal Register**, loose-leaf, and CFR form may be purchased from the Superintendent of Documents, U.S. Government Printing Office (GPO), Washington, DC 20402.

1801.104-370 Dissemination of this regulation, revisions and procurement notices.

(a) The NASA FAR Supplement, NASA FAR Supplement Directives (NFSDs) and Procurement Notices (PNs) (see 1801.270-2) will be distributed directly to NASA Headquarters and to installation distribution points. The number of copies of the regulation and revisions thereto will be distributed on the basis of the requirements furnished by each Headquarters office and NASA field installation to the Office of Procurement, NASA Headquarters (Code HP). Material that revises this regulation will be published in the **Federal Register** as required by statute.

(b) Heads of field installations shall ensure that copies of the NASA FAR Supplement, NFSDs, and PNs are promptly distributed to all interested activities and individuals within their installation. Code HP is responsible for distribution within Headquarters and for monitoring bulk distribution to installations.

(c) Subscriptions to the NASA FAR Supplement, including applicable NFSDs, may be purchased by private concerns and individuals from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

1801.105 OMB approval under the Paperwork Reduction Act.

1801.105-1 NASA FAR Supplement requirements.

The following OMB control numbers apply:

NASA FAR Supplement Segment and OMB Control Number	
18-12	2700-0056
18-23	2700-0051
18-27	2700-0052
18-32	2700-0055
18-43	2700-0054
NF 533	2700-0003
NF 667	2700-0004
NF 1018	2700-0017
All Requirements	*2700-0043*

1801.105-2 Solicitations and contracts.

Various requirements in an RFP/IFB or contract, generally in the statement of work, are not tied to specific paragraphs cleared in 1801.105-1, but yet require information collection or recordkeeping. OMB control number 2700-0042 applies to these requirements. The OMB control number shall be displayed in the upper right hand corner of each solicitation/contract. Over-printing is authorized by 1853.104.

Subpart 1801.2—Administration

1801.270 Amendment of regulation.

This regulation will be amended as needed to set forth improved procedures that reduce contract preparation time, simplify and standardize contract forms, and improve the contracting process. Acquisition personnel are encouraged to submit suggestions, based on operating experience, for improving and simplifying the procedures in this Regulation. Such suggestions should be submitted through the Procurement Officer to the Office of Procurement, NASA Headquarters (Code HP).

1801.270-1 Revisions.

This regulation will be amended by issuance of NFSDs containing loose-leaf replacement pages which revise parts, subparts, or paragraphs. Also see 1801.270-2 below. Each replacement page will bear the NFSD number and page number at the top. A vertical bar at the side of a line indicates that a change has been made within that line.

1801.270-2 Procurement notices.

(a) This regulation will also be amended by issuance of Procurement Notices (PNs) when—

(1) It is necessary or advisable to promulgate as rapidly as possible selected material revising this regulation, in a general or narrative manner, in advance of a specific page

replacement type revision to this regulation, or

(2) The policy and/or procedure is expected to be effective for a period of one year or less.

(b) Unless otherwise indicated, each item in a PN will remain in effect until the effective date of the subsequent NASA FAR Supplement revision that incorporates the item or until specifically cancelled.

(c) Material that is unsuitable for insertion in this regulation will be promulgated by means other than PNs.

1801.270-3 Effective date.

(a) Statements in NFSDs and PNs to the effect that the material published therein is "effective upon receipt" or upon a specified date or that changes in the Directive or Notice are "to be used upon receipt" mean that any new or revised clauses or forms included in the Directive or Notice shall be included in invitations for bids and requests for proposals issued thereafter, unless a different meaning is expressed in the Directive or Notice.

(b) Compliance with a revision to this regulation shall be in accordance with the NFSD or PN which contains the revision. Procurements initiated after receipt of new or revised clauses should, to the maximum practicable extent, include such clauses.

(c) Unless otherwise stated, invitations for bids that have been issued and bilateral agreements for which negotiations have been completed prior to the receipt of new or revised contract clauses need not be amended to include the new or revised clauses if such amendment would unduly delay the procurement action.

1801.270-4 Numbering.

(a) Effective January 1, 1986, NFSDs and PNs are numbered in the same manner as the FAR; i.e., consecutively beginning with number 1 prefixed by the last two digits of the calendar year of issuance of the current edition of the NASA FAR Supplement.

(b) Prior to January 1, 1986, the following NFSD's and PN's were issued:

1984
NFSDs 84-1 through 84-3
PNs 84-1 through 84-15
1985
NFSDs 85-1 through 85-4
PNs 85-1 through 85-9

Although in calendar year 1986 the NFS is a 1984 edition, the first NFSD is 85-5 and the first PN is 85-10. The current consecutive numbering and the "85" prefix will be maintained until the next NFS edition is published. Full compliance with paragraph (a) above will be achieved at that time.

1801.271 NASA procedures for FAR changes.

(a) NASA is represented on the Defense Acquisition Regulatory Council (DARC) by a policy member from the Procurement Policy Division (Code HP) and a legal member from the Office of General Counsel (Code GK). NASA staff members are also assigned to standing and *ad hoc* DARC committees in their areas of expertise. The DARC policies and procedures for initiating and reviewing FAR changes shall be followed by the assigned individuals.

(b) Any NASA element or individual may suggest a revision to the FAR. Such suggestions should be in writing and contain, at a minimum: A concise description of the problem the suggested revision is designed to cure or ameliorate; the revision in the form of a marked-up copy of the current FAR language or the text of any additional FAR language; the consequences of making no change and the benefits to be expected from a change; and any other information necessary for understanding the actual situation. All suggested FAR revisions shall be sent to the Director, Procurement Policy Division (Code HP).

Subpart 1801.3—Agency Acquisition Regulations

1801.301 Policy.

All agency-wide policies and procedures that govern the contracting (see FAR Subpart 2.1) process or otherwise control contracting relationships shall be incorporated in the NASA FAR Supplement.

1801.302-70 Field installation instructions and implementation of the NASA FAR supplement.

Heads of NASA field installations may implement the FAR and NASA FAR Supplement by prescribing for their installation detailed procurement operating instructions, delegations of authority, and assignment of responsibilities which they deem essential for the efficient performance of their procurement function. Such instructions shall comply with FAR § 1.302 and Subpart 1.4 and Subpart 1801.4 of this regulation.

1801.303 Codification and public participation.

1801.303-70 Assignment of numbers.

(a) Part, subpart, section, and subsection numbers 1 through 69 are reserved for FAR use.

(b) Part, subpart, section, and subsection numbers 70 through 89 are reserved for NASA FAR Supplement use.

(c) Part, subpart, section, and subsection numbers 90 and up are reserved for use by NASA contracting offices.

Subpart 1801.4—Deviations From the FAR and NASA FAR Supplement

1801.400 Scope of subpart.

This subpart prescribes the policies and procedures for authorizing deviations from the NASA FAR Supplement and for the internal processing of FAR deviation requests under FAR Subpart 1.4.

1801.401 Definition.

"Deviation" means—

(a) "Deviation" as defined at FAR 1.401; and/or

(b) Any one or combination of the following:

(1) The issuance or use of a policy, procedure, solicitation provision (see FAR 52.101(a)), contract clause (see FAR 52.101(a)), method, or practice of conducting acquisition actions of any kind at any stage of the acquisition process that is inconsistent with the NASA FAR Supplement.

(2) The omission of any solicitation provision or contract clause when its prescription requires its use.

(3) The use of any solicitation provision or contract clause with modified or alternate language that is not authorized by the NASA FAR Supplement (see definitions of "modification" and "alternate" in FAR 52.101(a)).

(4) The use of a solicitation provision or contract clause prescribed by the NASA FAR Supplement on a "substantially as follows" or "substantially the same as" basis (see FAR 52.101(a)) if such use is inconsistent with the intent, principle, or substance of the prescription or related coverage on the subject matter in the supplement.

(5) The authorization of lesser or greater limitations on the use of any solicitation provision, contract clause, policy, or procedure prescribed by the NASA FAR Supplement.

(6) The issuance of agency-wide policies or procedures that govern the contracting process or otherwise control contracting relationships that are not incorporated into the NASA FAR Supplement in accordance with FAR 1.301(a) and 1801.301 of this regulation.

1801.402 Policy.

Unless precluded by law, executive order, or regulation, deviations from the NASA FAR Supplement may be granted only as specified in this subpart. See FAR Part 53 and Part 1853 of this

regulation regarding exceptions to forms prescribed therein.

1801.403 Individual deviations.

Individual deviations affect only one contracting action and, unless FAR 1.405(e) is applicable, may be authorized only by the Assistant Administrator for Procurement or a designee. (See 1801.471 regarding requests for deviations.)

1801.404 Class deviations.

Class deviations affect more than one contracting action. When it is known that a class deviation will be required on a permanent basis, the contracting office should propose an appropriate NASA FAR Supplement revision to cover the matter. Only the Assistant Administrator for Procurement or a designee may approve class deviations. (See 1801.471 regarding request for deviations.) 1801.405 Deviations pertaining to treaties and executive agreements.

1801.405 Deviations pertaining to treaties and executive agreements.

Deviations to the NASA FAR Supplement pertaining to treaties or executive agreements will be processed under the procedures in FAR 1.404 except that deviations not authorized by FAR 1.405 (b) or (c) will be requested under 1801.471.

1801.470 Modification to existing contracts new procurement.

When an existing contract is modified to add new procurement, approval of the deviations previously granted for the existing contract must be obtained for the modification as though the modification were a new contract. New procurement for the purpose of this section shall be considered any action that is competed or that must be authorized under FAR 6.302. An information copy of each request for deviation shall be furnished to the cognizant Associate Administrator.

1801.471 Procedure for requesting deviations.

(a) Requests for authority to deviate from the provisions of this Regulation and other procurement publications shall be submitted to the Office of Procurement, NASA Headquarters (Code HP). Such requests shall be signed by the procurement officer, or in that person's absence, by the duly appointed acting procurement officer. Such requests shall be submitted as far in advance as the exigencies of the situation will permit.

(b) Each request for a deviation shall contain, as a minimum—

(1) Identification of the NASA FAR Supplement requirement from which a deviation is sought;

(2) A full description of the deviation and the circumstances in which it will be used;

(3) A description of the intended effect of the deviation;

(4) A statement as to whether the deviation has been requested previously, and, if so, circumstances of the previous request;

(5) The name of the contractor and identification of the contract affected, including the dollar value;

(6) Detailed reasons supporting the request, including any pertinent background information which will contribute to a fuller understanding of the deviation sought; and

(7) A copy of the counsel's concurrence or comments thereon.

Subpart 1801.6—Contracting Authority and Responsibilities

1801.601 General.

At NASA, the authority and responsibility to contract for authorized supplies and services are delegated to the Assistant Administrator for Procurement by NMI 5101.8, Delegation of Authority—To Take Actions in Procurement and Related Matters (Assistant Administrator for Procurement), and the authority and responsibility to act in certain circumstances is redelegated to various NASA officials by NMI 5101.24, Delegation of Authority—To Take Actions in Procurement, Grants, Cooperative Agreements, and Related Matters (Various Officials).

1801.603 Selection, appointment, and termination of appointment.

1801.603-1 [Reserved]

1801.603-2 Selection.

(a) *Policy.* The objective of issuing contracting officer Certificates of Appointment, SF Form 1402, is to ensure that only those officials who are fully qualified to obligate the Government for the expenditure of public funds for the procurement of supplies and/or services are appointed as contracting officers when an organizational need occurs. Only GS–1105 and GS/GM–1102 personnel shall be appointed as contracting officers.

(b) *Appointment levels.* There are three levels of appointment authority, as follows; the appropriate appointment level shall be specified on the SF 1402 upon issuance:

(1) *Basic level:* Applies to personnel in the GS–1102 or GS–1105 series only who have signature authority for small purchases, orders placed under Federal Supply Schedule contracts, other mandatory sources, or blanket purchase agreements.

(2) *Intermediate level:* Applies to those in the GS–1102 series only who have been delegated the authority to execute contracts and contract modifications for up to a maximum of $500,000.

(3) *Senior level:* Applies to all personnel in the GS–1102 series only who have been delegated contracting authority to execute contracts and contract modifications which exceed $500,000.

(c) *Organizational need determination.* NASA contracting officers shall be appointed only in those instances in which a valid organizational need can be demonstrated. Organizational factors to be considered in assessing the need for a contracting officer appointment include volume of actions, complexity of work, and organizational structure.

(d) *Selection procedure.* (1) Once the organizational need is determined, the supervisor will nominate a contracting officer candidate. At the request of the supervisor, the candidate shall prepare a qualification statement (or SF 171) containing the following information:

(i) Name.

(ii) Title, series, and grade.

(iii) Office.

(iv) Relevant experience, beginning with current position to a total of four relevant positions, including for each position—

(A) Employer;

(B) Dates employed;

(C) Title of position;

(D) Kind of business/organization; and

(E) Description of work.

(v) Other relevant special qualifications, certifications, or skills.

(vi) Relevant honors, awards, or fellowships received.

(vii) Education, including—

(A) Highest level completed;

(B) High school name, dates attended, and diploma received; and

(C) College or university name, dates attended, degree(s) received; chief undergraduate college subjects; number of credits (show whether semester or quarter hours) completed; major field of study at highest level of college work.

(viii) Procurement-related training, including—

(A) Name of course;

(B) Name of school; and

(C) Dates attended.

(2) The supervisor will review the qualification statement to determine the candidate's ability to perform the

functions required to meet the organizational need. The supervisor will then complete a Request for Appointment of a Contracting Officer, using the format shown below, justifying the validity of the organizational need and verifying the contracting officer candidate's qualifications. This document will be signed by the candidate's supervisor and submitted through appropriate organizational channels to the appointing authority (see NMI 5101.24). If additional information is required by the appointing authority, the application will be returned with a request for further explanation or supporting data.

Format

Request for Appointment of a Contracting Officer

The following findings and determinations are made pursuant to applicable laws and regulations:

(Insert appropriate information)

1. There is a clear and convincing need to appoint a contracting officer with the ability to perform at the ——— (basic, intermediate, or senior) contracting officer warrant level for the following reasons:

(Insert appropriate reasons)

2. The contracting officer candidate is—

(Name, Title, Series, and Grade)

3. The contracting officer candidate will occupy the organizational level described below:

(Office/Branch/Division and Location)

4. The candidate's qualifications statement is enclosed. It was found that (insert the appropriate statement)

—The candidate's experience and training meet the established qualification standards.

—This candidate does not meet the minimum qualifications in _____ experience and/or training as indicated in the justification); *therefore,* an interim appointment for the period of _____ is requested. These experience and/or training needs will be identified in the candidate's individual development plan and must be completed by _____.

5. The candidate's current conflict-of-interest disclosure statement is on file in the appropriate personnel office or is attached.

6. In addition to the NASA FAR Supplement, laws, Executive Orders, NASA Management Instructions, and other applicable regulations, the following additional warrant limitations are imposed:

a. Dollar Threshold:_____ ———————
b. Other Limitations:_____ ———————
Supervisor: ———————
(Signature of Supervisor of the Candidate)

(Date) (Typed Name)

(Procurement Office) (Title)
Approved:

(Appointing Authority) Date

(3) If the appointing authority approves the Request for Appointment of a Contracting Officer, the appointing authority shall issue a Standard Form (SF) 1402, Certificate of Appointment, in accordance with 1801.603–3. A copy of the SF 1402, the Request for Appointment of a Contracting Officer, and the qualification statement shall be maintained for each contracting officer in a central location in the center procurement office during the period of time the SF 1402 is effective and for three years after its termination or after the individual has left the procurement office's employ. A copy of each SF 1402 issued shall be provided to NASA Headquarters, Office of Procurement (Code HM). Each center shall prepare and maintain an up-to-date listing, by name and position, of all the installation's contracting officers and the limitations imposed on them in their warrants. A copy of this listing shall be provided annually to NASA Headquarters, Office of Procurement (Code HM).

(e) *Required qualifications.* (1) The following are the experience, education, and training requirements needed to qualify for each of the three contracting officer appointment authority levels. Appointing authorities can establish additional qualifications, as appropriate. For example, additional qualifications may be established for those authorized to sign incentive and award-fee actions.

(i) *Experience*—(A) *Basic level:* One year of current experience in Government or commercial procurement, including six months experience in small purchasing.

(B) *Intermediate level:* Two years of current, progressively complex and responsible procurement and/or staff experience in Government or commercial procurement.

(C) *Senior level:* Four years of current, progressively complex and responsible procurement and/or staff experience in Government or commercial procurement.

(ii) *Education (preferred, not mandatory).*

(A) *Basic level:* A high school diploma or equivalent.

(B) *Intermediate and Senior levels:* A bachelor's degree from an accredited college or university which included or was supplemented by at least 24 semester hours in a field of study directly related to procurement, such as business administration, contract law, accounting, Government management, industrial purchasing, or material management.

(iii) *Training.* Acceptable formal training courses covering the subject matter listed below must be satisfactorily completed before a candidate may be nominated for a contracting officer appointment. Approved equivalency tests may be used as substitutes for these formal training requirements.

(A) *Basic level:* 40 hours of formal training covering the application of fundamental principles, policies, procedures, and practices in procurement.

(B) *Intermediate level:* 80 hours of formal training covering the functional knowledge of procurement law, policies, procedures, and methods, including, as a minimum, Government contract law, procurement by negotiation, procurement by sealed bidding, contract administration, and cost and price analysis.

(C) *Senior level:* 120 hours of formal training, including analysis of procurement methods and techniques to enable an individual to effectively manage contractual relationships. The general topics described above also apply to the senior level.

(2) A two-year associate's degree in a procurement-related field, such as business administration or accounting, may be substituted for six months of procurement experience. A four-year undergraduate program degree in a procurement-related field from an accredited college or university may be substituted for procurement experience at the rate of 12 semester credit hours for three months of procurement experience. One year of concentrated experience in an advanced procurement subject area beyond the two-year minimum for the intermediate-level qualifications and the four-year minimum for senior-level qualifications may be substituted for 24 classroom hours of formal training in procurement. The maximum credit for the total additional years of experience in separate concentrated procurement subject areas is 96 classroom hours.

(f) *Interim appointments.* Personnel shall not ordinarily be appointed as contracting officers if they do not meet the applicable qualifications prescribed in this subsection. If it is necessary to appoint a contracting officer who does not fully meet the qualifications, an interim appointment may be granted. The appointing authority shall require as a condition of the interim appointment that all training or experience requirements will be met within a specified reasonable period of time. Failure to successfully complete the training requirements within this time

frame will result in termination of the appointment or issuance of another interim warrant, whichever is considered necessary by the appointing authority. The appointing authority must fully document these actions.

(g) *Condition of appointment.* As a condition of continuing appointment, all contracting officers shall be required to satisfactorily complete a procurement-related Government, commercial, or academic course/seminar at least once every five years. This training will preferably be in an area closely related to that in which the contracting officer is assigned.

(h) *Changes to contract Officer appointments.* Changes, either increasing or decreasing the warrant limitations of a contracting officer, shall be made solely at the discretion of the appointing authority. When an appointing authority determines to make such changes, a new SF 1402 shall be issued, and the existing warrant shall be officially terminated.

1801.603–3 Appointment.

(a) The SF 1402 shall be construed as authorization of designated personnel to exercise contracting officer authority in accordance with the FAR. In addition, the SF 1402 shall be construed as authorization of designated personnel to exercise contracting officer authority in accordance with the NASA FAR Supplement and the NASA Procurement Regulation. The limitations section of the SF 1402 shall, immediately after the word "following," state:

"* * * the limitations contained in the NASA FAR Supplement and the limitations contained in the NASA Procurement Regulation."

(b) If the appointing official chooses to restrict a contracting officer from exercising authority under the NASA Procurement Regulation, the limitations section of the SF 1402 shall, immediately after the word "following," state:

* * * the limitations contained in the NASA FAR Supplement. This Certificate of Appointment does not authorize the appointee to exercise contracting officer authority under the NASA Procurement Regulation.

1801.603–4 Termination.

The appointing authority may revoke the appointment of a contracting officer at any time. Contracting officers whose appointments are terminated shall be given by the appointing authority a written notice stating the reasons for and the effective date of the termination.

1801.670 Delegation of procurement responsibilities.

(a) Non-GS/GM–1102 or –1105 personnel shall only be delegated procurement responsibilities by a warranted contracting officer (see 1801.603 above) and only in accordance with the guidelines in this section. Personnel who are not in the GS/GM–1102 or –1105 job series shall not be issued formal contracting officer warrants (SF 1402). Procurement responsibilities, as ordering officers or as contracting officer representatives, shall be delegated to such personnel by a warranted contracting officer in a written letter of delegation. Limitations shall be clearly set forth in the delegation letter. Authority to sign contracts, modifications, or orders in excess of the small purchase limitation shall not be delegated.

(b) Non-procurement personnel who are delegated procurement responsibilities shall be required to have the training, experience, and education requirements necessary for the responsibilities assigned. If responsibility is to be delegated for making small purchases, the training, education, and experience for the basic-level contracting officer warrant shall be required. Variations from these procedures require a deviation in accordance with Subpart 1801.4.

Subpart 1801.7—Determinations and Findings

1801.703 Class determinations and findings.

The effective period specified in each class determination and findings (D&F) shall not ordinarily exceed one year. When periods longer than one year are considered appropriate and necessary, they should be stated, along with the reasons for the longer periods.

1801.704 Content.

(a) Content and format requirements in addition to those at FAR 1.704 are specified in the associated subject text.

(b) While the contracting officer is responsible for preparing the D&Fs, requirements and technical personnel are responsible for the accuracy and adequacy of the factual information supporting the findings. Supporting information within the functional areas of requirements and technical personnel shall be furnished to the contracting officer in writing.

1801.707 Signatory authority.

(a) Signatory authority for D&Fs is specified in the FAR or NASA FAR Supplement text for the associated subject matter.

(b) The Administrator or Deputy Administrator may also make any of the D&Fs that may be made by the Assistant Administrator for Procurement or by a contracting officer.

PART 1802—DEFINITIONS OF WORDS AND TERMS

3. Subpart 1802.1 is amended by revising 1802.101 to read as follows:

1802.101 Definitions.

The following words and terms are used throughout this regulation as defined in this subpart unless—

(a) The context in which they are used clearly requires a different meaning, or

(b) A different definition is prescribed for a particular part or portion of a part.

"Administrator" means the Administrator or Deputy Administrator of NASA.

"Assistant Administrator for Procurement" means the Assistant Administrator for Procurement, Office of Procurement, NASA Headquarters (Code H).

"Contracting activity" in NASA includes each "installation" as defined herein.

"Contracting office" means the same thing as the previously used term "procurement office."

"Field installation" means Ames Research Center, Goddard Space Flight Center, John F. Kennedy Space Center, Langley Research Center, Lewis Research Center, Johnson Space Center, George C. Marshall Space Flight Center, National Space Technology Laboratories, and any other field installation hereafter established by NASA.

"Head of the agency" means, in NASA, the Administrator or Deputy Administrator of NASA.

"Head of the contracting activity" means, in NASA, the Director (or other Head) of a NASA field installation and the Assistant Administrator for Procurement for NASA Headquarters.

"Installation" means NASA Headquarters and field installations and is synonymous with the term "contracting activity."

"Procurement" means the same thing as the term acquisition, as defined in FAR Subpart 2.101.

"Procurement Officer" means the chief of the contracting office, as defined in FAR Subpart 2.101.

PART 1803—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

4. Part 1803 is amended as set forth below:

a. In Subpart 1803.3, paragraphs (a)(5) and (c) of 1803.303 are revised to read as follows:

1803.303 Reporting suspected antitrust violations.

(a) * * *

(5) Information that may be available with respect to the pricing system employed in bids or proposals believed to reflect noncompetitive practices; and

* * * * *

(c) The contracting officer shall submit the identical bid report required by FAR 3.303(d) to NASA Headquarters, Office of Procurement (Code HP). The report shall include the reasons for suspecting collusion. Code HP will forward a copy of the report to the NASA Office of the Inspector General.

b. In Subpart 1803.70, 1803.7001 is revised to read as follows:

1803.7001 Policy.

(a) It is NASA policy that contracts will not normally be placed on a noncompetitive basis with any individual who was employed by NASA during the past two years or with any firm in which such a former employee is a partner, principal officer, or majority shareholder or which is otherwise controlled or predominantly staffed by such former employees, unless it is determined to be in the best interest of the Government to do so (see 1806.303–270).

(b) Where it has been determined that it is appropriate to contract with an individual or a firm described in paragraph (a) above, the approval authority for the justification for less than full and open competition shall be as specified in 1806.304–70.

(c) If an individual or firm described in paragraph (a) above is involved in a competitive procurement, precautions must be taken to ensure that such individual or firm, *per se*, is not accorded preferential treatment. In the event such individual or firm is the successful offeror, the contract file shall include a separate document fully explaining the safeguards used to ensure fair treatment of all offerors under the procurement. Such documentation is not required if sealed bidding is used.

(d) Nothing in this subpart shall be construed as relieving former employees from obligations prescribed by law, such as 18 U.S.C. 207, Disqualification of Former Officers and Employees.

(e) The policy in paragraph (a) above shall also be considered when reviewing subcontracts for the purpose of granting consent under NASA prime contracts (see FAR 44.202–2(a)(7)).

PART 1804—ADMINISTRATIVE MATTERS

5. In Part 1804, in Subpart 1804.70, 1804.7002 is revised and Subpart 1804.74 is added to read as set forth below:

1804.7002 Restrictions.

Requests for permission to transfer a contract to another NASA installation, when considered advisable by the Director of the installation, shall be addressed to the appropriate official-in-charge of a Headquarters program office or the designated program director, after concurrence from the recipient installation director. Contracts shall not be transferred by an installation until permission to transfer has been obtained. The concurrence of the Associate Deputy Administrator—Institution (Code ADA–I) is also required for a transfer where an installation's roles and missions may be affected.

Subpart 1804.74—Observance of Legal Holidays

1804.7401 Contract clause.

The contracting officer shall insert the clause at 1852.204–73, Observance of Legal Holidays, in cost reimbursement contracts when work will be performed at a NASA installation and it is desired that contractor employees observe the same holidays as government employees. This clause may be appropriately modified for fixed price contracts. If notification to a contractor of government holidays would be useful in administering any contract, the contracting officer shall use Alternate I.

PART 1805—PUBLICIZING CONTRACT ACTIONS

6. Subpart 1805.2 is amended by revising 1805.205 and 1805.207 to read as follows:

1805.205 Special situations.

Potential sources which respond to R&D advance notices shall be added to the appropriate solicitation mailing list for the subsequent solicitation. Those sources that do not appear on the solicitation mailing lists established in accordance with FAR 14.205–1 shall be requested to submit Standard Form 129, Solicitation Mailing List Application. Responding sources that are on established lists may be requested to submit amended applications in order to reflect their current capabilities.

1805.207 Preparation and transmittal of synopses.

(a) Within NASA, each notice publicizing the procurement of architect-engineer services shall be headed "R. Architect-Engineer Services." In addition to other requirements of FAR 5.207(c), the description of the project shall include a brief statement on the relative order of importance the Government attaches to the significant evaluation criteria and the date by which responses to the notice must be received, including submission of Standard Form 255, Architect-Engineer and Related Services Questionnaire for Specific Project, if required. Appropriate statements shall be made concerning any specialized qualifications, security classifications, and limitations on eligibility for consideration. Qualifications or performance data required from architect-engineer firms shall be described. If the procurement is to be set aside for small business, the notice shall so state, indicating the specific size standard to be used and requiring that eligible responding firms submit a small business certification statement. In addition, contracting officers shall also add at the end of the synopsis—

See Note 62. Provisions of Note 62 shall apply to this notice except that in the second paragraph of the note: (a) The "National Aeronautics and Space Administration" is substituted for the "Department of Defense" wherever the reference appears, and (b) the fourth additional consideration listed is changed to read: "(4) Past experience, if any, of the firm with respect to performance on contracts with NASA, other Government agencies, and private industry."

(b) In synopses of contracting actions involving options, the contracting officer shall either—

(1) Include the options in the description required by FAR 5.207(c)(2)(viii) or

(2) Publish a separate synopsis of the option as a new procurement prior to its exercise. (See FAR 17.207(c)(4).)

(c) FAR 5.207(b)(4) requires that each synopsis be identified by a Federal Information Processing Standards (FIPS) number. The numbers assigned to NASA installations by FIPS–95 are—

Ames Research Center	8020
Goddard Space Flight Center	8026
Headquarters	8001
Johnson Space Center	8032
Kennedy Space Center	8035
Langley Research Center	8038
Lewis Research Center	8041
Marshall Space Flight Center	8044
NASA Residence Office—JPL	8029
National Space Tech. Lab	8047

7. Subpart 1805.3 is revised to read as follows:

* * * * *

Subpart 1805.3—Synopses of Contract Awards

Subpart 1805.3—Synopses of Contract Awards

1805.302 Preparation and transmittal of synopses of awards.

1805.302-70 Headquarters notification.

The contracting officer shall mail one copy of the synopsis of contract award as prepared under FAR 5.302 to the Office of Small and Disadvantaged Business Utilization, NASA Headquarters (Code K) and send one copy to the Public Affairs Office of the installation.

1805.303 Announcement of contract awards.

Congressional notification shall be in accordance with 1805.403-70.

1805.303-70 Furnishing additional procurement information to the public.

(a) *Policy.* (1) In addition to publicizing procurements and contract awards in the Commerce Business Daily, it is NASA policy to furnish the public, upon request, through the public affairs office of the NASA installation receiving the request, information on specific current NASA procurements, including—

(i) The names of firms invited to submit bids or proposals;

(ii) The names of firms that attended any preproposal briefing conferences when held;

(iii) After the date established for receipt of bids or proposals, the names of firms that submitted bids or proposals (but see 1815.413); and

(iv) Contract award information as required to be publicized in the Commerce Business Daily under the provisions of FAR 5.303 and this 1805.303-70.

(2) Exceptions to this policy will be permitted only when the Assistant Administrator for Procurement or the Director of the field installation concerned determines that the disclosure of such information would be prejudicial to the interests of NASA.

(b) *Procedures.* Contracts requiring approval by the Assistant Administrator for Procurement, in accordance with Subpart 1804.72 will not be distributed, nor will any information be given to any source outside of NASA that the contract has been approved, until 24 hours after the Director of Public Affairs and the Assistant Administrator for Legislative Affairs, NASA Headquarters, have been advised that the contract has been consummated.

(c) *Unsuccessful offerors.* For releasing information to unsuccessful offerors, see FAR 14.408 and FAR Subpart 15.10.

1805.303-71 Notification of the Public Affairs Office.

(a) *Letter contracts.* (1) The procedures for issuing and approving letter contracts are contained in FAR 16.603 and 1816.603. Prior to transmittal of a letter contract to a contractor for signature, the Procurement Officer shall furnish to the Installation Public Affairs Office the following information:

(i) Whether the letter contract initiates a new contract or additional work or services under an existing contract.

(ii) The dollar amount authorized for the letter contract and the estimated total cost of the contract or supplemental agreement.

(iii) Name and address of the contractor.

(iv) Location where the work is to be performed.

(v) A brief description of the work, including identification of the program and project.

(vi) For the purpose of responding to queries only, a list of the unsuccessful offerors and their addresses.

(2) Upon receipt of the information described in subparagraph (a)(1) above, the Installation Public Affairs Office will transmit the information immediately, in the form of a news release, by priority TWX or more expeditious means (if appropriate) to the Chief, News and Information Branch (Code LM), and the Assistant Administrator, Congressional Relations Office (Code XC), NASA Headquarters. The information will not be otherwise released by the Installation Public Affairs Office, nor shall the letter contract be released before 2:30 p.m. Washington, DC, time of the next working day, unless clearance has been received earlier from the Office of the Chief, News and Information Branch (Code LM). If individual circumstances clearly indicate a need for earlier action, exception must be obtained from the Assistant Administrator for Procurement.

(b) *Definitive contracts and supplemental agreements.* (1) This subparagraph pertains to contracts and supplemental agreements that do not require the approval of the Assistant Administrator for Procurement pursuant to 1804.7205 and are in an amount of $5,000,000 or over for the National Space Technology Laboratory, Headquarters Contracts and Grants Division, and the NASA Resident Office—JPL and $10,000,000 or over for Ames Research Center, Goddard Space Flight Center, Johnson Space Center, Kennedy Space Center, Langley Research Center, Lewis Research Center, and Marshall Space Flight Center. This subparagraph does not pertain to supplemental agreements covering overruns or incremental funding actions. Such contracts and supplemental agreements shall not be distributed nor shall any source outside NASA be informed that the contractual instrument has been signed by both parties until the following procedures are carried out:

(i) The Procurement Officer shall furnish to the Installation Public Affairs Office the following information—

(A) Whether the contract initiates a new contract or additional work or services under an existing contract.

(B) Type of contract.

(C) Dollar amount authorized for the instant action and the estimated total cost of the contract if this is different.

(D) Name and address of the contractor.

(E) Location where the work is to be performed.

(F) A brief description of the work, including identification of the program and project.

(G) For the purpose only of responding to queries, a list of the unsuccessful offerors and addresses.

(ii) Upon receipt of the above information, the Installation Public Affairs Office will immediately prepare a news release in the form of a priority TWX which will contain as a minimum the information in subparagraph (b)(1)(i) above, and transmit it to the Chief, News and Information Branch (Code LM), and to the Assistant Administrator, Congressional Relations Office (Code XC), NASA Headquarters. The information will not be otherwise released by the Installation Public Affairs Office, nor shall the contract instrument be released before 2:30 p.m. Washington, DC time of the next working day unless clearance has been received earlier from the Chief, News and Information Branch (Code LM). If individual circumstances clearly indicate a need for earlier action, exception must be obtained from the Assistant Administrator for Procurement.

(2) When forwarded for the approval of the Assistant Administrator for Procurement, if required by 1804.7205, contracts and supplemental agreements shall be accompanied by a draft news release prepared by the Installation Public Affairs Office and furnished to

the contracting office for inclusion in the submission file. The news release will contain as a minimum the information required by subpagraph (b)(1)(i) above. At the time the contract or supplemental agreement is approved by the Assistant Administrator for Procurement, the news release will be forwarded immediately to the Chief, News and Information Branch (Code LM), and to the Assistant Administrator, Congressional Relations Office (Code XC).

8. In Subpart 1805.4, 1805.403–70 is revised to read as follows:

1805.403–70 Headquarters approval and release.

The proposed reply, with full documentation, will be promptly prepared and forwarded by the most expeditious means to the Assistant Administrator, Congressional Relations Office (Code XC), NASA Headquarters, for approval and release. (See 1805.303–70.)

PART 1810—SPECIFICATIONS, STANDARDS, AND OTHER PURCHASE DESCRIPTIONS

9. Part 1810 is amended as set forth below:

a. Section 1810.002–70 is revised to read as follows:

1810.002–70 NASA policy.

Whenever a specification is deemed inadequate, immediate action shall be taken under established procedures to amend or revise the specification in order to obviate the necessity for repeated departures from the specification.

b. In 1810.004, paragraph (a) is revised to read as follows:

1810.004 Selecting specifications or descriptions for use.

(a) As required by FAR 10.004(e), appropriate preservation, packaging, packing, and marking requirements will be included in contracts. The services of packaging technicians shall be used to:

(1) Develop preservation, packaging, packing, and marking requirements for individual procurements, and

(2) Assist in evaluating the reasonableness of contractors' packaging, packing, and marking cost estimates or charges.

* * * * *

c. In 1810.004–71, paragraphs (a) through (g) are revised to read as follows:

1810.004–71 Brand name or equal purchase description.

(a) Purchase descriptions which contain references to one or more brand name products followed by the words "or equal" may be used only when authorized by FAR 10.004(b)(3) and in accordance with this subpart (see 1810.008–70, 1810.011 and 1852.210–70).

(b) The words "or equal" should not be added when it has been determined under paragraph (a) above that only a particular product meets the essential requirements of the Government, as, for example, where the required supplies can be obtained only from one source (see FAR 6.302–1).

(c) Where feasible, all known acceptable brand name products should be referenced. Where a "brand name or equal" purchase description is used, prospective contractors must be given the opportunity to offer products other than those specifically referenced by brand name if such other products will meet the needs of the Government in essentially the same manner as those referenced.

(d) "Brand name or equal" purchase descriptions should set forth those salient physical, functional, or other characteristics of the referenced products which are essential to the needs of the Government. For example, where interchangeability of parts is required, such requirement should be specified. Purchase descriptions should contain the following characteristics, in addition to those at FAR 10.004(b)(1), to the extent available, and include such other information as is necessary to describe the item required:

(1) Complete common generic identification of the item required;

(2) Applicable model, make, or catalog number for each brand name product referenced, and identity of the commercial catalog in which it appears; and

(3) Name of manufacturer, producer, or distributor of each brand name product reference (and address if company is not well known).

(e) When necessary to describe adequately the item required, an applicable commercial catalog description, or pertinent extracts therefrom, may be used if such description is identified in the solicitation as being that of the particular-named manufacturer, producer, or distributor. The contracting officer will insure that a copy of any catalogs referenced (except parts catalogs) is available on request for review by offerors at the contracting office.

(f) When a solicitation contains a "brand name or equal" purchase description, bidders who offer brand name products referenced in such description shall not be required to furnish bid samples of the referenced brand name products; however, solicitations may require the submission of bid samples in the case of offerors proposing "or equal" products.

(g) Proposals offering products which differ from brand name products referenced in a "brand name or equal" purchase description shall be considered for award where the contracting officer determines under the clause in 1852.210–70 that the offered products meet the salient characteristics required by the solicitation. Offers shall not be rejected because of minor differences in design, construction, or features which do not affect the suitability of the products for their intended use.

* * * * *

d. Sections 1810.008 and 1810.008–70 are revised to read as follows:

1810.008 Identification and availability of specifications.

Each solicitation shall be accompanied by the applicable specifications, standards, plans, drawings, and other pertinent documents, or shall state where such documents may be obtained or examined.

1810.008–70 Brand name or equal awards.

Award documents shall identify or incorporate by reference an identification of the specific products which the contractor is to furnish. Such identification shall include any brand name and make or model number, descriptive material, and any modifications of brand name products specified in the solicitation. Included in this requirement are those instances where:

(a) The description of the end item contains "brand name or equal" purchase descriptions of component parts or of accessories related to the end item; and

(b) The clause at 1852.210–70 as applicable to such component parts or accessories (see 1810.004–70(i)).

PART 1812—CONTRACT DELIVERY OR PERFORMANCE

10. Subpart 1812.1 is amended by adding to 1812.104–70 paragraph (c) to read as follows:

1812.104–70 Additional clauses.

* * * * *

(c) The contracting officer shall insert the clause at 1852.212–72, Partial Shipments, in solicitations and contracts when a quantity specified for a line item to be delivered is more than one unit and/or when the schedule contains more than one line item to be delivered.

and partial shipments by the contractor will not adequately meet the Government's overall needs.

PART 1813—SMALL PURCHASE AND OTHER SIMPLIFIED PURCHASE PROCEDURES

11. In Subpart 1813.3, 1813.303 is revised to read as follows:

1813.303 Preparation and execution of orders.

Orders incorporating the fast payment procedure may be issued on Optional Form 347, Order for Supplies or Services, or on any other Center-prescribed purchase order form.

1813.403-70 [Amended]

12. In 1813.403-70, paragraph (c)(2) is revised by removing the word "paragraph" in the last sentence.

PART 1815—CONTRACTING BY NEGOTIATION

13. Subpart 1815.8 is amended as set forth below:

a. Section 1815.805-5(a) is revised to read as follows:

1815.805-5 Field pricing support.

(a) A field pricing report shall be obtained in accordance with FAR 15.805-5(a)(1) except that for cost reimbursement, cost sharing, cost-plus-award-fee, or cost-plus-fixed-fee types of contracts the requirement for obtaining a field pricing report is $1,000,000.

* * * * *

b. Sections 1815.870-1 and 1815.870-2 are revised to read as follows:

1815.870-1 General.

When subcontracts have been placed on a price redetermination or fixed-price incentive basis and the prime contract is to be repriced, it may be appropriate to negotiate a firm prime contract price, even though the contractor has not yet established final subcontract prices. The contracting officer may do this when convinced the amount included for subcontracting is reasonable, e.g., where realistic cost or pricing data on subcontract efforts is available. However, even though the available cost data is highly indefinite and there is a distinct chance that one or more of the subcontracts eventually may be redetermined at prices that are lower than those predicted in redetermining the prime contract price, other circumstances may require the prompt negotiation of the final contract price. In such a case, the contract modification which evidences the revised contract price should provide for adjustment of the total amount paid or to be paid under the contract on account of subsequent redetermination of the specified subcontracts. This may be done by including in the contract modification the clause prescribed at 1815.870-2.

1815.870-2 NASA contract clause.

Insert the clause at 1852.215-71, Adjustment for Subcontract Price Redetermination, in contract modifications that reflect a repricing of the prime contract when one or more subcontracts thereunder is on a price redetermination or fixed-price incentive basis and the prime contractor has not established final prices for any such subcontracts.

PART 1816—TYPES OF CONTRACTS

14. Part 1816 is amended as set forth below:

a. In Subpart 1816.2, 1816.203-4 is revised to read as follows:

1816.203-4 Contract clauses.

(a) When neither of the clauses prescribed in FAR 16.203-4(a) or (b) is appropriate, the contracting officer may use one of the clauses at 1852.216-7001 or 1852.216-7002 in accordance with following instructions:

(1) *Economic price-adjustment for basic steel, aluminum, brass, bronze, or copper mill products.* The price-adjustment clause at 1852.216-7001 is authorized for use in supply contracts for basic steel, aluminum, brass, bronze, or copper mill products such as sheets, plates, and bars, when all of the conditions in FAR 16.203-4(a) (i) through (iii) have been met. The ten percent figure in subparagraph (c)(1) of the clause shall not be exceeded unless approved by the Procurement Officer. No adjustment under this clause shall be made in the contract price until the requested adjustment has been verified by the contracting officer in accordance with the criteria in FAR 15.804-3(c) and as required by subparagraph (c)(4) of the clause.

(2) *Economic price adjustment for nonstandard steel items.*

The price adjustment clause at 1852.216-7002 is authorized for use in fixed-price supply contracts when (i) the contractor is a steel producer and actually manufactures the standard steel mill item referred to in paragraph (d) of the clause and (ii) the items being procured are nonstandard steel items made wholly or in part of standard steel mill items. The 110% figure in paragraph (e) of the clause shall not be exceeded unless approved by the Procurement Officer after coordination with the installation Financial Management Officer.

(b) The contracting officer shall also coordinate with the installation Financial Management Officer before exceeding the ten percent limit in subparagraph (c)(1) of the clauses at FAR 52.216-2, 52.216-3, and 52.216-4.

(c) The contracting officer may modify the clause at FAR 52.216-4 for use in sealed bid procurements.

(d) This paragraph applies to adjustments based on cost indexes of labor or material.

(1) All economic price adjustment clauses using cost indexes require advance approval by the Assistant Administrator for Procurement. Requests for such approval shall be submitted to the Office of Procurement, NASA Headquarters, Code HC.

(2) The following factors may be considered in preparing a price adjustment clause in situations meeting the criteria of FAR 16.203-4(d):

(i) The clause should not be overly complex.

(ii) The clause normally should not provide either a ceiling or a floor for adjustment unless adjustment is based on an index below the four-digit level of the Bureau of Labor Statistics Producer Price Index or the Wage and Income Series by Standard Industrial Classification (Labor).

(iii) The clause normally should cover all potential economic fluctuations within the original contract period of performance.

(iv) The clause must have a positive and accurate identification of the applicable index(es) upon which adjustments will be based and must provide an alternative in the event publication of the designated index is discontinued. The alternative might include the substitution of another index, if the time remaining would justify it and an appropriate index is reasonably available, or some other method for repricing of the remaining portion of the work to be performed. There normally should not be any need to make an adjustment if computation of the identified index is altered; *however*, provision may be made to adjust the economic fluctuation computations if there is such a substantial alteration to the method of computing the index as to negate the original intent of the parties. When an index to be used is subject to revision (*e.g.*, the Bureau of Labor Statistics Producer Price Indexes), the economic price adjustment clause shall further specify that any economic price adjustment shall be based upon the applicable revised index.

(v) An index should be structured to encompass a large sample of relevant items, yet bear a logical relationship to

the type of contract costs measured. The basis of the index should not be so large and diverse that it is significantly affected by fluctuations not relevant to contract performance, yet must be broad enough so as to assure the minimal effect of any single company, including the anticipated contractors.

(vi) Not more than two indexes normally should be used; i.e., one for labor (direct and indirect) and one for material (direct and indirect).

(vii) The clause must establish and properly identify a base period comparable to the contract periods for which adjustments are to be made as a reference point for application of an index.

(viii) The clause should provide for adjustment from the beginning of the contract or from such period of time that the rate of expenditure is commensurate with the administrative cost and effort to adjust, but it should not provide for adjustment beyond the original contract performance period.

(ix) The expenditure profile for both labor and material should be based on a predetermined rate of expenditure (expressed as the percentage of material or labor usage as it relates to total contract price) in lieu of actual cost incurred. If the clause is to be used in a competitive procurement, the labor and material allocations, with regard to both mix and percentage rate of expenditure, shall be determined by the contracting officer in a manner which approximates, as nearly as possible, the average-expenditure profile of all companies to be solicited. If the clause is to be used in an other-than-competitive procurement, the labor and material allocations determined by the contracting officer may be subject to negotiation and agreement.

(x) The clause should state the percentage of the contract price subject to price adjustment. Normally, adjustments would not be applied to the profit portion of the contract. Additionally, the labor and material portions of the contract must be examined to exclude any areas that do not require adjustment. It may not be necessary, for example, to include all subcontracting because some of the subcontracting could be for short periods of time during the early life of the contract. It may be possible to exclude certain areas of overhead from escalation protection; e.g., depreciation charges, prepaid insurance costs, rental costs, leases, certain taxes, and utility charges. Consideration also should be given to including economic-fluctuation protection covering that portion of labor for the period of time for which a definitive union agreement exists without additional factoring for such things as cost of living increases. Care should be taken to allocate to labor and material only those costs likely to be affected by fluctuations in the economy. That portion of the contract determined to be proper for economic-fluctuation protection shall then be allocated to specific periods of time (e.g., quarterly, semiannually) based on the most-probable expenditure or commitment basis (expenditure profile).

(xi) The clause should provide for definite times or positive events for price adjustments. Adjustments should be of a frequency that will afford the contractor appropriate economic relief without at the same time creating a burdensome administrative effort. The adjustment period should normally range from a minimum of quarterly to a maximum of annually.

(xii) When the contract contains cost incentives, any sums paid to the contractor because of economic price adjustment provisions shall be subtracted from the total of the contractor's allowable cost for the purpose of establishing the total costs to which the cost incentive provisions apply. If the incentive arrangement is cited in percentage ranges rather than dollar ranges above and below target costs, the economic price adjustment clause should be structured to maintain the original contract incentive range in dollars.

(xiii) The economic price adjustment clause should provide that once the labor and material allocations have been established, they remain fixed through the life of the contract and are not modified except in the event of partial termination of the contract. The clause should state that pricing actions pursuant to the changes clause or other provisions of the contract will be priced as though there were no provision for economic price adjustment.

(e) Consistent with the factors in subparagraph (d)(2) above, and to properly allocate risk, the contracting officer may determine it appropriate to provide for certain economic price adjustment arrangements between the prime contractor and subcontractors. In such circumstances, a provision for incorporation of price adjustment clauses in specified subcontracts should be included in the price adjustment provision of the prime contract.

(f) When economic price adjustment provisions are included in contracts that do not require submission of cost or pricing data (see FAR 15.804–2), it is the responsibility of the contracting officer to obtain adequate information to establish the base line from which adjustments will be made. In addition, the contracting officer may require verification of the data submitted to the extent considered necessary to permit reliance upon it as a reasonable base line.

(g) The contracting officer shall insert the provision at 1852.216–7003, Evaluation of Offers Subject to Economic Price Adjustment, in all solicitations and contracts that contain an economic price adjustment clause.

b. In Subpart 1816.3, 1816.303 is revised to read as follows:

1816.303 Cost-sharing contracts.

The following basic guidelines apply to research contracts resulting from unsolicited proposals, and to supplements to such contracts which require additional funding.

(a) *When cost-sharing is applicable.* (1) Except as provided in subparagraphs (b) (1) and (2) below, cost sharing by non-Federal organizations is mandatory in any contract for basic or applied research resulting from an unsolicited proposal.

(2) Cost sharing by non-Federal organizations in contracts other than those described in subparagraph (a)(1) above may be accepted when voluntarily offered by a performing organization.

(b) *When cost sharing is not applicable.* (1) Cost sharing is not applicable to contracts for basic or applied research resulting from an unsolicited proposal when the offeror certifies in writing to the contracting officer that it has no commercial, production, educational, or service activities on which to use the results of the research, and no means of recovering any cost sharing on such projects. In these situations, where there is no measurable gain to the performing organization, there is no mutuality of interest, and it would not be equitable for the Government to require cost sharing.

(2)(i) The activities of educational institutions under NASA research grants, cooperative agreements, and contracts are of benefit only to NASA and normally would not justify cost sharing; i.e., NASA's normal policy of reimbursing universities fully for research performed on its behalf would apply. However, to establish on a case-by-case basis that there is no clear indication of significant future benefit or measurable gain, and that cost sharing does not apply, the contracting officer shall document the file with a determination that is substantively the same as that required in subparagraph (b)(1) above. The determination shall identify the information on which it is

based. If the determination cannot reasonably be made from the available material, the contracting officer shall request the offeror to certify as in subparagraph (b)(1) above. Blanket procedures shall not be established for obtaining certifications from offerors for all cases on a routine basis.

(ii) Cost sharing by educational institutions may nevertheless be accepted when voluntarily offered; provided, the institution is aware of NASA's policy that the amount of cost sharing is not a factor in the determination to support a given proposal.

(c) *Amount of cost sharing.* (1) Educational institutions and affiliated not-for-profit institutions.

(i) Cost sharing for such institutions normally varies from one percent to as much as five percent of the cost of the project. Cost sharing normally is appropriate if it falls within the one to five-percent range.

(ii) NASA does not request inclusion of cost-sharing information in proposals from educational institutions. If cost sharing is determined applicable, a cost-sharing offer will be requested during negotiations.

(2) *Other performing organizations.* (i) Cost sharing for organizations other than those in subparagraph (c)(1) above may be any percentage of the research cost. Mutuality of interest in the results of the work being performed is of primary significance in assessing the appropriateness of any particular level of cost sharing.

(ii) Factors which may be considered in determining mutuality of interest include—

(A) The potential of the contractor to recover its contribution from non-Federal sources;

(B) The extent to which the particular area of research requires special stimulus in the national interest; and

(C) The extent to which a research effort or result is likely to enhance the contractor's capability, expertise, or competitive position.

(d) *Implementation*—(1) *Payment of fee or profit.* No fee or profit will be paid to a cost-sharing contractor, and only an agreed portion of allowable costs will be reimbursed.

(2) *Method of cost sharing.* Cost sharing shall be accomplished by a contribution of part or all of one or more elements of the allowable cost of the work being performed and normally shall be expressed as a stated minimum percentage of the total allowable costs of the project. Costs so contributed may not be charged to the Government under any other grant or contract (including allocation to other grants or contracts as part of an independent research and development program).

(3) *Documentation.* Grant, cooperative agreement, and contract files shall contain appropriate documentation of the reasons for cost sharing and support for the amount of cost sharing agreed upon. For educational institutions, the reasons for cost sharing exceeding five percent or the amount originally offered shall be documented.

c. In Subpart 1816.6, 1816.603–71 is revised to read as follows:

1816.603–71 Authority to approve the issuance of a letter contract.

(a) *Letter contracts having an estimated definitive contract amount below the dollar thresholds specified in 1807.7102.*

(1) Authority to approve the issuance of such letter contract is delegated to the procurement officers. The request for approval shall include the following:

(i) Name and address of proposed contractor.

(ii) Location where contract is to be performed.

(iii) Contract number, including modification number, if applicable.

(iv) Brief description of the work or services to be performed.

(v) Performance period or delivery schedule.

(vi) Amount of letter contract.

(vii) Performance period of letter contract.

(viii) Estimated total amount of definitive contract.

(ix) Type of definitive contract to be executed; e.g., fixed-price, cost-plus-award-fee.

(x) Statement that the definitive contract will contain all required clauses or that deviations therefrom have been approved.

(xi) Statement as to the necessity and advantage to the Government of the proposed letter contract.

(2) The Procurement Officer shall provide a copy of the approval to issue a letter contract, along with the documentation required in paragraph (a)(1) above, to the Assistant Administrator for Procurement (Code HS) within 10 days of approval.

(3) The Procurement officer shall notify the Assistant Administrator for Procurement (Code HS) of the date of definition and contract amount.

(b) *Letter contracts having an estimated definitive contract amount equal to or exceeding the dollar thresholds specified in 1807.7102.* (1) Requests for authority to issue such letter contracts shall be signed by the Procurement Officer and submitted to the Assistant Administrator for Procurement (Code HS). They shall include the information cited in paragraph (a)(1) above.

(2) Any modification made, prior to definitization, to a letter contract that was approved by the Assistant Administrator for Procurement must be approved by the Assistant Administrator for Procurement. When a letter contract was approved by the Procurement Officer, any modification made to it, prior to definitization, that increases the estimated definitized contract amount to or above the dollar thresholds specified in 1807.7102 must have the prior approval of the Assistant Administrator for Procurement.

(3) Promptly upon receipt of a request to issue a letter contract, the Assistant Administrator for Procurement will obtain the concurrence or comments of cognizant Officials-in-Charge of Headquarters Offices and then advise the Procurement Officer of the disposition of the request.

1816.702 [Removed]

d. In Subpart 1816.7, 1816.702 is removed.

PART 1822—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

15. Subpart 1822.6 is amended by revising 1822.608–5 to read as follows:

1822.608–5 Award.

FAR 22.608–5(b) shall not apply to NASA.

PART 1823—ENVIRONMENT, CONSERVATIONS, AND OCCUPATIONAL SAFETY

16. Subpart 1823.70 is amended as set forth below:

a. In 1823.7002, paragraph (d)(1)(vii) is revised to read as follows:

1823.7002 Responsibility.

* * * * *

(d) * * *

(1) * * *

(vii) Activities which may (by either direct or secondary effect) adversely affect the work environment due to the use of ionizing radiation, microwaves, noise, lasers, ultraviolet, and infrared sources.

* * * * *

PART 1832—CONTRACT FINANCING

17. Subpart 1832.1 is amended as set forth below:

a. In 1832.111–70, paragraph (e) is added to read as follows:

1832.111–70 NASA contract clauses.

* * * * *

(e) The contracting office shall insert the clause at 1852.232–79, Payment for On-site Preparatory Costs, in solicitations and contracts for construction on a fixed-price basis where progress payments are contemplated and pro rata payment of these costs to the contractor is appropriate.

1832.171 [Removed]

b. Section 1832.171 is removed.

PART 1842—CONTRACT ADMINISTRATION

18. Part 1842 is amended as set forth below:

a. In Subpart 1842.1, 1842.101 and 1842.173 are revised to read as follows:

1842.101 Policy.

It is NASA policy to make optimum use of the contract administration audit and related support functions available from the Department of Defense (DOD) and other Government agencies. NASA agreements with Government agencies regarding the delegation and performance of contract administration and related field support functions are the responsibility of the Governmental Affairs Division (Code LD). However, questions may be directed to the Procurement Policy Division (Code HP). NASA shall retain technical direction of all contracts awarded regardless of the agency responsible for contract administration.

1842.173 Reimbursement for contract administration services.

The basis for reimbursement to DOD for contract administration and related support services is the NASA–DOD agreement. Budgeting, funding, and payment for these services will be accomplished in accordance with NMI 7410.1, Budgeting, Funding and Payment for Contract Administration and Related Field Services Performed by Others. Budgeting, funding, and payment of carrier bills of lading for transportation performed as a result of a traffic management delegation are the responsibility of the NASA installation issuing the delegation.

b. Subpart 1842.2 is amended by revising paragraph (d) of 1842.202–70 to read as follows:

1842.202–70 Delegations to contract administration offices.

* * * * *

(d) *Industrial security.* NASA industrial security policies and procedures are set forth in NMI 1650.1, Industrial Security Policies and Procedures, which stipulates that the industrial security function on NASA contracts will be performed automatically by DOD. The basis for DOD performance of this function is the NASA/DOD Agreement. Nonindustrial security functions, which are the responsibility of the NASA contracting officer, may be delegated to DOD at the option of the NASA contracting officer and shall be delegated when contract performance is to be accomplished at another NASA installation (see section 1842.171). These contracting officer security functions, when delegated to DOD or to another NASA installation, shall be specifically identified on NASA Form 1430A.

* * * * *

c. Subpart 1842.70 is added to read as follows:

Subpart 1842.70—Technical Direction

1842.7001 Contract clause.

(a) The contracting officer shall insert the clause at 1852.242–70, Technical Direction, in cost reimbursement solicitations and contracts where the contracting officer determines that it is necessary to issue direction to the contractor within the scope of the contract in order to accomplish the contract requirements effectively. This clause is not authorized for use with institutions of higher education and other non-profit organizations.

(b) If the contract includes FAR 52.243–7, Notification of Changes (see FAR 43.106), the contracting officer shall use Alternate I to the clause. This alternate substitutes paragraph (d) of the clause in order to use the procedures in the Notification of Changes clause when the contractor believes nontechnical direction changes have been issued.

PART 1845—GOVERNMENT PROPERTY

19. Subpart 1845.1 is amended as set forth below:

a. In 1845.102–70, paragraph (a)(3) is revised to read as follows:

1845.102–70 Procedures.

(a) * * *

(3) Requirement that additional facilities to be provided by the Government be described and identified by category, such as "Land," "Buildings," and "Equipment" (see Subpart 1845.71).

* * * * *

b. In 1845.106–70, paragraph (d) is revised to read as follows:

1845.106–70 NASA contract clauses.

* * * * *

(d) The clause at 1852.245–73, Financial Reporting of Government-Owned/Contractor-Held Property, shall be inserted in all contracts except where it is virtually certain that Government property will not be furnished to or acquired by the contractor (i.e., as in most study contracts and certain contracts for services), or where the only property to be provided is provided for the purpose of repair or servicing (see 1852.245–72), or where all property to be provided is subject to the clause at 1852.245–71, Installation Provided Government Property (see paragraph (b) above). Reporting shall be on an annual basis except in those instances in which an on-site contractor is performing property acquisition and management for the Government. In such cases more frequent reporting may be required and the contracting officer shall use the clause with its Alternate I (monthly reporting) or Alternate II (quarterly reporting) as appropriate. The address and office code of a single organization within the cognizant NASA installation which has been designated as the focal point for control and distribution of the NF 1018 shall be inserted in the clause.

c. Section 1845.106–71 is added to read as follows:

1845.106–71 Plant reconversion and plant clearance.

Any solicitation provision or contract clause which would reserve until after award of a contract the negotiation of costs for plant reconversion or plant clearance must be approved by the Assistant Administrator for Procurement.

20. Subpart 1845.5 is amended by revising 1845.505–14 to read as follows:

1845.505–14 Reports of Government property.

(a) *Property accounts.* The contractor's property control system shall be such as to provide the dollar amount of Government property for which the contractor is accountable in the following classifications in accordance with the instructions in 1845.71:

(1) Land and rights therein.
(2) Buildings.
(3) Other structures and facilities.
(4) Leasehold improvements.
(5) Plant equipment.
(6) Special tooling.
(7) Special test equipment.
(8) Material.
(9) Space hardware.

(b) *Facilities, special tooling and special test equipment.* The contractor's property control system shall identify the items in subparagraphs (a) (1) through (7) above as contractor-acquired or Government-furnished.

(c) *The material and space hardware.* The contractor's property control system shall provide the dollar value of items in subparagraphs (a) (8) and (9) above for which the contractor is accountable. Reporting of material, however, is required only when the balance on hand at the end of the reporting period amounts to $75,000 or more . Reporting of space hardware is required only by direction of the contracting officer.

(d) *Submission of reports.* When required by the contract (see 1845.106–70(d)), the contractor shall submit a Report of Government-Owned/ Contractor-Held Property, NASA Form 1018, in accordance with the instructions in 1845.71 and the contract clause.

21. Subpart 1845.71 is amended by revising the introductory text and instructions 1 through 6 in 1845.7101 to read as follows:

1845.7101 Instructions for the preparation of NASA Form 1018.

This instruction provides guidance in the preparation of NASA Form 1018 (see 1853.3) which is required of all contractors that have been furnished, or have acquired, Government-owned property under the terms of their contract. The classification of property, the related costs to be reported, and the reporting requirements are set forth below:

1. Property Classification Accounts

The following property classifications and related costs apply only to financial reporting under this Form:

(a) *Land.* The classification "land" includes costs of land, capital improvements thereto (except buildings and other structures and facilities), and costs incidental to the acquisition and preparation of land for use such as appraisal fees, clearing costs, drainage, grading, landscaping, plats and surveys, removal and relocation of the property of others as part of purchase contract, removal or destruction of structures or facilities purchased but not used, and legal fees and expenses.

(b) *Buildings.* The classification "buildings" includes costs of buildings, improvements to buildings, and fixed equipment which is normally required for the functional use of the building and becomes permanently attached to and made a part of the building which cannot be removed without cutting into the walls, ceilings, or floors, such as plumbing, heating and lighting equipment, elevators, central air conditioning systems, and built-in safes and vaults. It also includes the cost of all equipment of any type built-in, affixed to, or installed in real property where the installation cost, including special foundations or unique utilities or services, or the facility restoration cost after removal, is substantial.

(c) *Other Structures and Facilities.* The classification "other structures and facilities" includes costs of acquisitions and improvements of other structures and facilities such as airfield pavements; harbor and port facilities; power production facilities and distribution systems; reclamation and irrigation facilities; flood control and navigation aids; storage, industrial, service, and research and development facilities other than buildings; utility systems (heating, sewage, water, and electrical) when they serve several buildings and/or structures; communication systems; traffic aids; roads and bridges; railroads; monuments and memorials; and other nonstructural improvements such as sidewalks, parking areas, and fences. It also includes the cost of all equipment of any type built-in, affixed to, or installed where the installation cost including special foundations or unique utilities or services, or the facility restoration cost after removal is substantial.

(d) *Leasehold Improvements.* The classification "leasehold improvements" includes NASA-funded costs of long-term capital improvements (more than 3 years) to leases, rights, interests, and privileges relating to land such as easements, rights-of-way, permits, use agreements, water rights, air rights, and mineral rights. It also includes the NASA-funded costs of improvements (costing $5,000 or more and determined to be a capital asset) made to land, buildings, and other structures and facilities occupied by a NASA contractor but leased either indirectly through contract or directly by NASA rather than owned by NASA. However, the cost of NASA-owned buildings and other structures and facilities (and improvements thereto that meet the criteria for capitalization) occupied by a NASA contractor and located on land not owned by NASA shall be included in the appropriate account(s) described in paragraphs (a), (b), and (c). A single improvement shall not be accomplished in increments of less than $5,000 in order to avoid adjustment to the fixed asset accounts.

(e) *Plant Equipment.* The classification "plant equipment" includes costs of personal property of a capital nature (including equipment, machine tools, test equipment (but excluding special tooling, special test equipment and space hardware—see paragraphs (f), (g), and (i), furniture, vehicles, and accessory and auxiliary items) for use in manufacturing supplies, in performing services, or for any administrative or general plant purpose, which—

(1) Has a unit cost of $5,000 or more;

(2) Has a useful life of two years or more; or

(3) Will not be consumed during an experiment.

(f) *Special Tooling.* The classification "special tooling" includes the cost of jigs, dies, fixtures, molds, patterns, taps, gauges, other equipment and manufacturing aids, all components of these items, and replacement of these items, which are of such a specialized nature that without substantial modification or alteration their use limited to the development or production of particular supplies or parts thereof or to the performance of particular services. It does not include the cost of material, special test equipment, facilities (except foundations and similar improvements necessary for installing special tooling), general or special machine tools, or similar capital items.

(g) *Special Test Equipment.* The classification "special test equipment" includes costs of either single or multipurpose integrated test units engineered, designed, fabricated, or modified to accomplish special purpose testing in performing a contract; items or assemblies of equipment that are interconnected and interdependent so as to become a new functional entity for special testing purposes. It does not include costs of material, special tooling, facilities (except foundations and similar improvements necessary for installing special test equipment), and plant equipment items used for general plant testing purposes.

(h) *Material.* The classification "material" includes costs of property which may be incorporated into or attached to an end item to be delivered under a contract or which may be consumed or expended in the performance of a contract. It includes, but is not limited to, raw and processed material, parts, components, assemblies, and small tools and supplies which may be consumed in normal use in the performance of a contract. It is not intended that this category include material which is part of space hardware work in process reported on NASA Form 1018, Schedule II, when required by the terms of the agreement, or material which has been issued from inventory and charged to a contract item. It is intended to include all Government-owned material which normally would be considered as materials inventory for balance sheet purposes.

(i) *Space Hardware.* The classification "space hardware" applies only to those items of space property, and components thereof, specifically identified in the Annual List of Selected Items of Space Hardware (see paragraph 6). It includes the cost of personal property which is unique to aeronautical and space programs of NASA and is not otherwise included in the classification of property set forth in paragraphs (a) through (h) above. Space hardware is subdivided as follows for financial reporting purposes:

(1) Completed space hardware, systems, and subsystems (includes the cost, actual or estimated, of such items as aircraft, engines, space vehicles, satellites, spacecraft, and rockets including components provided for prototypes, mock-ups, fit checks, or for such other reasons as may be specified in the contract).

(2) Spare parts and components (includes the cost, actual or estimated, of deliverable spare parts and components employed as spare parts to be used for the purpose of emergency, replacement, repair, or modification subsequent to the fabrication of space hardware). These types of property are commonly referred to as "logistics spares" or "test support spares" and do not include components utilized by the contractor which are not deliverable as spares and which are included as work in process.

(3) Space hardware work in process (includes the actual or estimated fabrication costs as of the date of the report of undelivered space hardware and such associated systems, subsystems, spare parts, and components which are provided or acquired and charged to work in process pending incorporation into and end item).

These types of items are included in what is sometimes called production inventory and include programmed extra units to cover replacement during the fabrication process (production spares). Also included are progress payments to firm fixed-price subcontractors for undelivered items.

2. Transfers of Property

In order for NASA to properly control and account for contractor-held Government property (both Government-furnished and contractor-acquired), all transfers to another contract, contractor, NASA installation, or other Government agency shall be adequately documented. Such transfers shall only be accomplished through the NASA installation responsible for the contract from which the property is being transferred.

(a) *Transfers By Contractors*— (1) *Approval and notification.* Property transfers by contractors shall be made only upon the approval of the NASA contracting officer (or designee), of the contractor making shipment. The shipping document shall specify the appropriate property classification such as plant equipment, special test equipment, special tooling, or space hardware. The cognizant property administrator of the shipping contractor shall be informed of property transfers by a copy of the shipping document. Shipping and receiving contractors shall promptly notify their respective NASA financial management office when accountability of Government property reportable on NASA Form 1018 is transferred to, or received from, other contracts, contractors, NASA installations, or other Government agencies. Copies of shipping/receiving documents will suffice in most instances.

(2) *Documentation.* The shipping contractor shall prepare an acceptable form of documentation such as DD Form 250, Material Inspection and Receiving Report, DD Form 1149, Requisition and Invoice/Shipping Document, or similar forms to cover movement of Government property to other Government agencies. Established procedures for the use of such forms shall be strictly followed. As a minimum, each shipping document must contain contract number(s), shipping reference(s), property classification(s) in which the item(s) is (are) recorded, unit price(s), and any other appropriate identifying or descriptive data. Unit prices on the shipping document shall be obtained from records maintained pursuant to the provisions of FAR Part 45 and NFS 1845.

(3) *Reporting.* In addition to the required shipping documentation, all transfers of reportable property which occur during the reporting period shall be reflected in column (b), Government-Furnished Additions, of NASA Form 1018 by the receiving contractor and in column (e), Disposals, of NASA Form 1018 by the shipping contractor.

(4) *Reclassification.* Reclassifications between property accounts shall be accomplished by the contractor in possession of the property at the time reclassification takes place. Where property is transferred to another contract or contractor, it shall first be recorded by the receiving contractor in the same property classification and amount as reflected on the shipping document. (For example, in the event a contractor received an item by transfer from another contractor or NASA installation which is identified on the shipping document as plant equipment but which the recipient intends to incorporate into special test equipment, the recipient shall first enter the transferred item in the plant equipment account and subsequently reclassify it as special test equipment.) The reclassification of Plant Equipment, Special Tooling, Special Test Equipment, and/or Space Hardware shall not be made without prior notification to the property administrator and approval of the contracting officer.

(5) *Incomplete Documentation.* Where transfer documents are received by contractors without sufficient detail to properly record the transfer (e.g., omission of property classification, unit prices, etc.), the missing data shall be requested directly from the shipper or through the property administrator as provided in FAR 45.505–2. Contractors may append a Government-furnished property list to the NASA Form 1018 report when they are unable to obtain the required data, provided that the list includes the following information:

(i) Description of the property.

(ii) Quantity.

(iii) Shipping document reference.

(iv) Identity of shipper.

(v) Dates shipped and/or received.

(vi) Date(s) price data were requested and from whom requested (shipper or property administrator).

(vii) NASA Form 1018 line item (type/account) to be adjusted.

(b) *Other Transfers*— (1) *Intra-Contractor Transfers.* Any transfer of Government property between contracts of a single contractor, whether administered by the same NASA installation or by a different NASA installation, requires the same approval, notification, and documentation as set forth in paragraph (a) above.

(2) *Transfer to Government agencies other than NASA.* Transfers of Government property to such other Government agencies can only be accomplished through the NASA contracting officer and requires the same approval, notification, and documentation as set forth in paragraph (a) above.

(3) *Recovered space hardware.* Space hardware recovered after flight and transferred to a contractor for analysis, repair, refurbishment, or for other purposes shall not be reported on subsequent NASA Forms 1018 as Space Hardware unless accountability has been transferred and the contractor is specifically directed to report the item.

3. Submission or Reports

(a) When the clause entitled "Financial Reporting of Government-Owned/Contractor-Held Property" is included in the contract, the contractor shall prepare a Report of Government-Owned/Contractor-Held Property, NASA Form 1018, in accordance with the instructions set forth herein and on the NASA Form 1018.

(b) Four copies of NASA Form 1018 for the period ending June 30 shall be submitted by the contractor in accordance with the clause entitled "Financial Reporting of Government-Owned/Contractor-Held Property" not later than July 31 of each year, when reporting is required annually. When more frequent reporting is required, the due date shall be not later than the last day of the month following the period being reported. The reporting requirement shall not be less frequent than annually; in all cases a report shall be required as of June 30.

(c) Negative reports shall be submitted when appropriate.

(d) A final report shall be submitted within 30 days after disposition of all property subject to reporting under the contract and shall not be withheld until the next regular report due date.

4. Report Coverage

(a) The NASA Form 1018 shall include the cost of all Government-owned property, except as noted in Section 5 below, in the possession of the contractor and first-tier subcontractors under each prime contract using the prime contractor's records to the extent practicable where the subcontractor reporting is delayed.

(b) Government-owned material held in storage for issue by the contractor and subcontractor shall be reported only when the balance on hand at the end of the reporting period amounts to $75,000 or more for each prime contract, including subcontracts.

(c) Space hardware shall be reported only if specifically requested in writing by the contracting officer, and reporting shall be limited to those items identified on the Annual List of Selected Items of Space Hardware (see Section 6).

5. Exclusions

The following items shall not be reported on NASA Form 1018:

(a) Plant equipment having a unit cost of less than $5,000.

(b) Industrial facilities in process of construction or material held for use in construction of industrial facilities.

(c) Scrap or salvage.

(d) Items ordinarily reportable but furnished to the contractor for repair and return to NASA (except as required in subparagraph 2(b)(3)).

(e) Work in process except as required in Schedule II, Space Hardware Reportable Items, of NASA Form 1018.

(f) Materials issued for consumption.

(g) Materials held in storage for issue where the cost at the close of the reporting period is less than $75,000.

(h) NASA shipping containers.

(i) Space hardware on firm fixed-price contracts and subcontracts, except where progress payments are specified (see subparagraph 1(i)(3)).

(j) Space property, except those items specifically identified as space hardware and required to be reported in accordance with Section 6.

(k) Installation property made available pursuant to the clause at 1852.245–71.

6. Space Hardware Reporting Requirements

(a) Space hardware reporting shall be required on cost and incentive type contracts

and first-tier subcontracts on a selective basis where the estimated cost and fee of the total contract exceeds $500,000 and any one or combination of the individual reporting categories (i.e., completed space hardware, components and spare parts, and work in process) exceeds $75,000.

(b) Space hardware items to be reported or deleted shall be specified by the contracting officer prior to June 1 of each year based on the Annual List of Selected Items of Space Hardware issued by the Director of Financial Management, NASA Headquarters.

(c) Reporting shall become effective with the next report period beginning July 1, or as otherwise stipulated in the contract and will continue thereafter until all specified items of space hardware are delivered under the terms of the contract, the contract is terminated, or the item is removed from the Annual List of Selected Items of Space Hardware.

(d) The reports shall contain—

(1) The reportable items on hand, consisting of the cost and quantity of completed space hardware and the cost of related independent completed systems and subsystems;

(2) The total amount for completed spare parts and components relating to item (1), above; and

(3) The total amount for work in process of fabrication relating to one or both of the preceding items.

(e) Costs reported on Schedule II will not be a consideration in reimbursement to the contractor for work performed or for termination proceedings. Costs will be computed in accordance with accepted accounting principle, will be reasonably accurate, and will be the product of any one, or a combination of, the following:

(1) Abstract of cost data from the contractor's property or financial records.

(2) Computations based on engineering and financial data.

(3) Estimates based on NASA Form 533 reports.

(4) Formula procedures, (e.g., using a 50 percent factor for work in process items based on updated SF 1411 estimates or the contractor's approved estimating and pricing system).

(5) Other approved methods.

(f) When the same item is being fabricated for more than one project, the completed space hardware, related independent systems and subsystems, spare parts, and work in process shall be reported by contract item.

(g) When a contract provides for two or more different completed space hardware items, some of which are not included in the Annual List of Selected Items of Space Hardware, cost of those items to be reported shall be determined on an actual basis where possible or on a basis considered reasonable within the contractor's records or as provided in paragraph (e) above.

(h) The cost of items of space hardware, systems, and subsystems shall be reported using the contractor's records which are a part of the prescribed property or financial control system as provided in Section 3; however, fee, tooling, and other nonrecurring costs shall be excluded. Fabrication costs shall be based on the contractor's approved estimating and pricing system or property control system and should include—

(1) Direct labor;

(2) Direct materials and purchased parts (costs of purchased items shall be consistent with the contractor's approved pricing methods);

(3) Other direct costs (e.g., computer costs, travel, and transportation);

(4) Overhead—a percentage factor or rate applied to the direct costs or other applicable base; and

(5) Costs of Government-furnished property applied (data available from the shipping document—e.g., DD Form 250, 1149, or similar form—or estimated where necessary).

* * * * *

PART 1847—TRANSPORTATION

22. Part 1847 is amended by adding Subpart 1847.70 to read as follows:

Subpart 1847.70—Protection of the Florida Manatee

1847.7001 Contract clause.

The contracting officer shall insert the clause at 1852.247–71, Protection of the Florida Manatee, in solicitations and contracts when deliveries or vessel operations, dockside work, or disassembly functions under the contract will involve use of the waterways inhabited by manatees (endangered marine mammals). The clause shall also be included in applicable subcontracts (including vendor deliveries).

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

23. Subpart 1852.2 is amended as set forth below:

a. Sections 1852.204–73, 1852.212–72, 1852.232–79, 1852.242–70 are added to read as follows:

1852.204–73 Observance of Legal Holidays.

Insert the following clauses as prescribed in 1804.7401.

Observance of Legal Holidays (September 1987)

(a) The on-site government personnel observe the listed days as holidays:

New Year's Day
Labor Day
Martin Luther King's Birthday
Columbus Day
Washington's Birthday
Veteran's Day
Memorial Day
Thanksgiving Day
Independence Day
Christmas Day

Any other day designated by Federal statute, Executive Order, or the President's proclamation.

(b) When any day falls on a Saturday, the preceding Friday is observed. When any such day falls on a Sunday, the following Monday is observed. Observance of such days by government personnel shall not by itself be cause for an additional period of performance, or entitlement of compensation except as set forth within the contract.

(c) All personnel assigned to this contract shall limit their observance of holidays set forth above. In the event the contractor's personnel work during a holiday other than those above, no form of holiday or other premium compensation will be reimbursed as either a direct or indirect cost. However, this does not preclude reimbursement for authorized overtime work where such work would have been overtime regardless of the status of the day as a holiday.

(d) When the center grants administrative leave to its government employees, contractor personnel working on-site should also be dismissed. However, the contractor agrees to continue to provide sufficient personnel to perform round-the-clock requirements of critical tasks already in operation or scheduled and shall be guided by the instructions issued by the contracting officer or his/her duly authorized representative.

(e) In each instance when administrative leave is granted to contractor personnel pursuant to paragraph (d) above as a result of inclement weather, potentially hazardous conditions, or other special circumstance, it will be without loss to the contractor. The cost of salaries and wages to the contractor for the period of any such excused absence shall be a reimbursable item of cost hereunder for employees in accordance with the contractor's established accounting policy.

(End of clause)

(Alternate I)

(September 1987)

(a) The on-site government personnel observe the listed days as holidays:

New Year's Day
Labor Day
Martin Luther King's Birthday
Columbus Day
Washington's Birthday
Veteran's Day
Memorial Day
Thanksgiving Day
Independence Day
Christmas Day

Any other day designated by Federal statute, Executive Order, or the President's proclamation.

(b) When any day falls on a Saturday, the preceding Friday is observed. When any such day falls on a Sunday, the following Monday is observed. Observance of such days by government personnel shall not by itself be cause for an additional period of performance, or entitlement of compensation except as set forth within the contract.

(End of clause)

1852.212–72 Partial shipments.

Insert the following clause as prescribed in 1812.104–70(c).

Partial Shipments

(September 1987)

Partial shipments will not be accepted unless authorized elsewhere in this contract or authorized by the contracting officer's representative at the time of delivery. The Government reserves the right to return partial shipments to the contractor, transportation charges collect.

(End of clause)

1852.232-79 Payment for On-Site preparatory costs.

Insert the following clause as prescribed in 1832.111-70(e):

Payment for On-Site Preparatory Costs

(September 1987)

Costs associated with on-site preparatory work (start-up or set-up costs) will be prorated over all work activities of a Critical Path Method (CPM) network or Progress Chart against which progress payments will be sought. Separate payment for on-site preparatory costs will not be made by the Government.

(End of clause)

1852.242-70 Technical direction.

Insert the following clause as prescribed in 1842.7001.

Technical Direction

(September 1987)

(a) Performance of the work under this contract shall be subject to the written technical direction of the Contracting Officer's Technical Representative (COTR), who shall be specifically appointed by the contracting officer in writing. Technical direction is defined as a directive to the contractor which approves approaches, solutions, designs, or refinements; fills in details or otherwise completes the general description of work or documentation items; shifts emphasis among work areas or tasks; or otherwise furnishes guidance to the contractor. Technical direction includes the process of conducting inquiries, requesting studies, or transmitting information or advice by the COTR, regarding matters within the general tasks and requirements in Section C of this contract.

(b) The COTR does not have the authority to, and shall not, issue any instructions purporting to be technical direction which:

(1) Constitutes an assignment of additional work outside the Statement of Work;

(2) Constitutes a change as defined in the contract clause entitled "Changes";

(3) In any manner causes an increase or decrease in the total estimated contract cost, the fixed fee (if any), or the time required for contract performance;

(4) Changes any of the expressed terms, conditions, or specifications of the contract; or

(5) Interferes with the contractor's rights to perform the terms and conditions of the contract.

(c) All technical directions shall be issued in writing by the COTR.

(d) The contractor shall proceed promptly with the performance of technical directions duly issued by the COTR in the manner prescribed by this clause and within his/her authority under the provisions of this clause. If, in the opinion of the contractor, any instructions or direction by the COTR falls within one, or more, of the categories defined in (b) (1) through (5) above, the contractor shall not proceed but shall notify the contracting officer in writing within five (5) working days after receipt of any such instruction or direction and shall request the contracting officer to take action as described herein. Upon receiving the notification from the contractor, the contracting officer shall either issue an appropriate contract modification within a reasonable time or advise the contractor in writing within thirty (30) days after receipt of the contractor's letter that:

(1) The technical direction is rescinded in its entirety; or

(2) The technical direction is within the scope of the contract, does not constitute a change under the "Changes" clause of the contract and that the contractor should proceed promptly with the performance of the technical direction.

(e) A failure of the contractor and contracting officer to agree that the technical direction is both within the scope of the contract and does not constitute a change under the "Changes" clause of the contract, or a failure to agree upon the contract action to be taken with respect thereto shall be subject to the provisions of the "Disputes" clause of this contract.

(f) Any action(s) taken by the contractor in response to any direction given by any person other than the contracting officer or the COTR shall be at the contractor's risk.

(End of clause)

Alternate I

(September 1987)

As prescribed in 1842.7001(b), substitute Alternate I as paragraph (d) of the basic clause.

(d) The contractor shall proceed promptly with the performance of technical directions duly issued by the COTR in the manner prescribed by this clause and within his/her authority under the provisions of this clause. If, in the opinion of the contractor, any instruction or direction by the COTR falls within one, or more, of the categories defined in (b) (1) through (5) above, the contractor shall not implement the direction but shall notify the Contracting Officer in accordance with the Notification of Changes clause (FAR 52.243-7) of this contract.

(End of clause)

b. Section 1852.245-73 is revised to read as follows:

1852.245-73 Financial Reporting of Government-Owned/Contractor-Held Property.

As prescribed in 1845.106-70(d), insert the following clause:

Financial Reporting of Government-Owned/Contractor-Held Property

(September 1987)

(a) The Contractor shall prepare and submit annually a NASA Form 1018, Report of Government-Owned/Contractor-Held Property, in accordance with the instructions on the form and subsection 1845.505-14 of the NASA FAR Supplement, except the reporting of space hardware shall be required only upon the written direction of the Contracting Officer identifying the specific project items to be reported.

(b) If administration of this contract has been delegated to the Department of Defense, the original and three copies of NASA Form 1018 shall be submitted through the DOD Property Administrator to the NASA office identified below. If administered by NASA, the forms shall be submitted directly to the following NASA office:

[Insert the address and office code of the organization within the cognizant NASA installation responsible for control and distribution of the NF 1018.]

(c) The annual reporting period shall be from July 1 of each year to June 30 of the following year. The report shall be submitted by July 31.

(d) The Contractor agrees to insert the reporting requirement in all first-tier subcontracts, except that such requirement shall provide for the submission of the subcontractor reports directly to the Contractor. The Contractor shall require the subcontractor reports to be submitted in sufficient time to meet the reporting date in paragraph (c) above.

(e) The Contractor's report(s) shall consist of a consolidation of subcontractors' reports and the Contractor's report.

(End of clause)

Alternate I

(September 1987)

When "monthly" is used in lieu of "annually" in paragraph (a) of the basic clause, substitute the following paragraph (c) for paragraph (c) of the basic clause:

(c) The monthly report is due no later than the last day of the month following the month being reported.

Alternate II

(September 1987)

When "quarterly" is used in lieu of "annually" in paragraph (a) of the basic clause, substitute the following paragraph (c) for paragraph (c) of the basic clause:

(c) The quarterly report is due no later than the last day of the month following the quarter being reported.

c. Section 1852.247-71 is added to read as follows:

1852.247-71 Protection of the Florida Manatee.

Insert the following clauses as prescribed in 1847.7001.

Protection of the Florida Manatee

(September 1987)

(a) Pursuant to the Endangered Species Act of 1973 (Pub. L. 93-205), as amended, and the Marine Mammals Protection Act of 1972 (Pub. L. 92-522), the Florida Manatee (Trichechus Manatus) has been designated as an endangered species, and the Banana and

Indian Rivers within and adjacent to NASA's Kennedy Space Center (KSC) have been designated as a critical habitat of the Florida Manatee.

(b) Contractor personnel involved in vessel operations, dockside work and selected disassembly functions, shall be provided training relative to:

(1) Habits and characteristics of the Florida Manatee,

(2) Provisions of the applicable laws,

(3) Personal liability of workers under the laws, and

(4) Operational restrictions imposed by KSC.

(c) All vessel operations shall be conducted within the posted speed restrictions, and vessels shall be operated at minimum controllable speeds in all KSC waters. Shallow water operations are prohibited.

(d) Training will be conducted by personnel of the U.S. Fish and Wildlife Service (USFWS). The contractor agrees to cooperate with the USFWS by allowing access at reasonable times and places (including shipboard) to USFW personnel, and by making available such contractor personnel as are required to have the training. Arrangements for training will be made as follows:

(1) For personnel involved in tug, barge, or marine operations, through the Lockheed Space Operations Contractor, Transportation Coordination Center, Kennedy Space Center, Florida, telephone (305) 867-2737.

(2) For all other personnel, through the Systems Training and Employee Development Branch, Code PM-TNG, telephone (305) 867-2737.

(e) The contractor shall incorporate the provisions of this clause in applicable subcontracts (including vendor deliveries).

(End of clause)

PART 1870—NASA SUPPLEMENTARY REGULATIONS

24. Section 1870.103 is amended as set forth below:

1870.103 [Amended]

a. In Chapter 6 of Appendix I to 1870.103, paragraph 2 is revised to read as follows:

600 Payload Formulation

* * * * *

2. Payload elements for STS flights fall into two major categories. "NASA or NASA-related" payload elements are those which are developed by a NASA Program Office or by another party with which NASA has a shared interest. "Non-NASA" payload elements are those which require only STS operation services from NASA and hence interface with NASA through the Office of Space Flight.

* * * * *

b. In paragraph XI of Appendix B to Appendix I of 1870.103, paragraph 1 is revised to read as follows:

Appendix B—General Instructions and Provisions

* * * * *

XI. Patent Rights

1. For any contract resulting from this solicitation awarded to other than a small business firm or nonprofit organization, the clause at NFS 1852.227-70, "New Technology," shall apply. Such contractors may, in advance of contract, request waiver of rights as set forth in the provision at NFS 1852.227-71, "Requests for Waiver of Rights to Inventions."

* * * * *

[FR Doc. 87-21142 Filed 9-14-87; 8:45 am]
BILLING CODE 7510-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 70362-7164]

Ocean Salmon Fisheries off the Coasts of Washington, Oregon, and California

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule.

SUMMARY: This document modifies the regulations implementing the Fishery Management Plan for Ocean Salmon Fisheries off Washington, Oregon, and California (FMP). The rulemaking is necessary to facilitate enforcement and to reconcile certain inconsistencies between Federal and State ocean salmon regulations, and Federal and international salmon and halibut regulations. It is intended to improve coordination among international, Federal, and State management jurisdictions and to strengthen enforcement of ocean salmon regulations.

EFFECTIVE DATE: October 14, 1987.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten (Director, Northwest Region, NMFS), 206-526-6150; or E. Charles Fullerton (Director, Southwest Region, NMFS), 213-514-6196.

SUPPLEMENTARY INFORMATION: Under the Magnuson Fishery Conservation and Management Act (Magnuson Act), the FMP was prepared by the Pacific Fishery Management Council (Council), and was approved by the Secretary of Commerce (Secretary) on March 2, 1978. The FMP has been amended seven times. Implementing regulations are codified at 50 CFR Part 661.

This rulemaking changes the Federal ocean salmon regulations to facilitate enforcement and resolve inconsistencies among Federal, State, and international regulations. The Council discussed this rule and recommended it to the Secretary at its September 1986 meeting.

The rule contains five changes to the ocean salmon fishing regulations which are described below:

Issue 1—Processing Inspection

The rule clarifies the authority of authorized officers to enter buildings, vehicles, piers, or dock facilities where salmon may be found by making it unlawful for a person in control to refuse such entry.

Issue 2—False Statements

The rule prohibits making any false statement, oral or written, to an authorized officer about the taking, catching, harvesting, landing, purchase, sale, or transfer of salmon.

Issue 3—Gear and Catch Inspection

The rule makes it unlawful to refuse to submit fishing gear or catch under a person's control to inspection by an authorized officer or to interfere with or prevent, by any means, such an inspection.

Issue 4—Pacific Halibut

The rule clarifies that it is unlawful to take and retain Pacific halibut except in accordance with regulations of the International Pacific Halibut Commission. Fishermen are required to return to the water with the least possible injury any Pacific halibut which cannot be retained lawfully.

Issue 5—Undersized Salmon

The rule prohibits fishing for salmon in an area when salmon of less than the legal minimum size limit for that area are aboard a vessel.

The rule was proposed in the **Federal Register** on May 27, 1987 (52 FR 19744), and public comments were requested until June 25, 1987. One comment was received on Issue 3. The commentor recommended that "catch" as well as "fishing gear" should be subject to the prohibition, and stated that there have been numerous instances when fishermen have been able to frustrate investigations by throwing illegal catch overboard. NOAA agrees with the need to add "catch" to this prohibition.

Classification

NOAA issues this rule, under authority of section 305(g) of the Magnuson Act, to clarify the meaning of specified sections of the FMP, to facilitate enforcement, and to reconcile inconsistencies among Federal, State, and international fisheries regulations.

This action is not expected to alter the nature or intensity of environmental impacts which were addressed in the supplemental environmental impact statement (SEIS) prepared for the 1984 framework amendment to the FMP. A notice of availability of the SEIS was published on September 23, 1984 (49 FR 38355).

The Administrator of NOAA determined that this rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities.

This rule does not contain a collection of information requirement for purposes of the Paperwork Reduction Act.

The Administrator determined that this rule does not directly affect the coastal zone of any State with an approved coastal zone management program.

List of Subjects in 50 CFR Part 661

Fish, Fisheries, Indians.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 10, 1987.

Bill Powell,

Executive Director, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR Part 661 is amended as follows:

PART 661—[AMENDED]

1. The authority citation for Part 661 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 661.2, a new paragraph (e) is added to read as follows:

§ 661.2 Relation to other laws.

* * * * *

(e) Any person fishing subject to this part who also engages in fishing for Pacific halibut should consult regulations of the International Pacific Halibut Commission at 50 CFR Part 301 for applicable requirements of that part.

3. In § 661.3, a definition of "areas of custody" is added in alphabetical order to read as follows:

§ 661.3 Definitions.

Areas of custody means any vessels, buildings, vehicles, piers, or dock facilities where salmon may be found.

* * * * *

4. Section 661.5 is amended by revising paragraph (b)(10) and adding new paragraphs (b) (17) through (20) to read as follows:

§ 661.5 General restrictions.

* * * * *

(b) * * *

(10) Refuse to permit an authorized officer to board a fishing vessel, or to enter areas of custody, subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Magnuson Act, this part, or any other regulation issued under the Magnuson Act.

* * * * *

(17) Make any false statement, oral or written, to an authorized officer concerning the taking, catching, harvesting, landing, purchase, sale, or transfer of any salmon.

(18) Refuse to submit fishing gear or catch subject to such person's control to inspection by an authorized officer, or to interfere with or prevent, by any means, such an inspection.

(19) Take and retain Pacific halibut (*Hippoglossus stenolepis*) except in accordance with regulations of the International Pacific Halibut Commission at 50 CFR Part 301. Pacific halibut which cannot be retained lawfully must be returned to the water immediately and with the least possible injury.

(20) Fish for salmon in an area when salmon of less than the legal minimum length for that area are on board the fishing vessel, except that this provision does not prohibit transit of an area when salmon of less than the legal minimum length for that area are on board so long as no fishing is being conducted.

[FR Doc. 87-21171 Filed 9-14-87; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 52, No. 178
Tuesday, September 15, 1987

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 401

[Amdt. No. 11, Doc. No. 4728S]

General Crop Insurance Regulations; ELS Cotton Endorsement

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the General Crop Insurance Regulations (7 CFR Part 401), effective for the 1988 and succeeding crop years, by adding a new section, 7 CFR 401.121, be known as the Extra Long Staple (ELS) Cotton Endorsement. The intended effect of this rule is to provide the regulations and endorsement containing the provisions of crop insurance protection on ELS cotton in an endorsement to the general crop insurance policy which contains the standard terms and conditions common to most crops. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than October 15, 1987, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to Peter F. Cole, Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC, 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC, 20250, telephone (202) 447–3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512–1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these reglations under those procedures. The sunset review date established for these regulations is established as August 1, 1992.

E. Ray Fosse, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases, in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared. This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

FCIC herewith proposes to add to the General Crop Insurance Regulations (7 CFR Part 401), a new section to be known as 7 CFR 401.121, the ELS Cotton Endorsement, effective for the 1988 and succeeding crop years, to provide the provisions for insuring extra long staple cotton.

Upon publication of 7 CFR 401.121 as a final rule, the provisions for insuring ELS cotton contained therein will supercede those provisions contained in 7 CFR Part 448, the ELS Cotton Crop Insurance Regulations, effective with the beginning of the 1988 crop year. The present policy contained in 7 CFR Part 448 will be terminated at the end of the 1987 crop year and later removed and reserved. FCIC will propose to amend the title of 7 CFR Part 448 by separate document so that the provisions therein are effective only through the 1987 crop year.

Minor editorial changes have been made to improve compatibility with the new general crop insurance policy. These changes do not affect meaning or intent of the provisions. In adding the new ELS Cotton Endorsement to 7 CFR Part 401, FCIC is proposing other changes in the provisions for insuring ELS cotton as follows:

1. Section 1

Add a provision indicating that cotton destroyed to comply with other U.S. Department of Agriculture programs will not be insured. This provision was added to prevent insurance from attaching to a crop that is destroyed or intended for destruction to comply with other U.S.D.A. programs.

2. Section 7

Add provisions providing for harvested—unharvested guarantees replacing stage guarantees. This change was made due to the administrative problems encountered in determining in which stage damage occurs and whether farmers in the area generally would further care for the crop.

3. Section 5

Include unit division provisions in the endorsement. The language used modifies the unit definition in the general crop insurance policy to exclude unit division by share.

4. Section 10

Change the definition of harvest to require that at least 25 percent of the production guarantee be picked before the acreage qualifies as harvested.

FCIC is soliciting public comment on this proposed rule for 30 days following publication in the **Federal Register**. Written comments received pursuant to this proposed rule will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 401

General crop insurance regulations, ELS cotton endorsement.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to amend the General Crop Insurance Regulations (7 CFR Part 401), effective for the 1988 and succeeding crop years, as follows:

1. The authority citation for 7 CFR Part 401 continues to read as follows:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. 7 CFR Part 401 is amended to add a new section to be known as 7 CFR 401.121 ELS Cotton Endorsement, effective for the 1988 and Succeeding Crop Years, to read as follows:

§ 401.121 ELS Cotton Endorsement

The provisions of the ELS Cotton Crop Insurance Endorsement for the 1988 and subsequent crop years are as follows:

Federal Crop Insurance Corporation Extra Long Staple Cotton Endorsement

1. Insured Crop and Acreage

a. The crop insured will be Extra Long Staple cotton ("ELS") and American Upland lint cotton ("AUP") if the acreage was originally planted to ELS cotton.

b. The acreage insured of skip-row cotton will be the acreage occupied by the rows of cottom after eliminating the skipped-row portions, unless other methods of determining acreage are required by the actuarial table.

c. In addition to the cotton not insurable in section 2 of the general crop insurance policy, we do not insure any cotton:

(1) Which is not irrigated and is grown:

(a) Where a hay crop was harvested; or

(b) Where a small grain crop reached the heading stage in the same calendar year;

(2) Planted in excess of the acreage limitations applicable to the farm by any program administered by the United States Department of Agriculture; or

(3) Destroyed, designated to be destroyed, or put to another use in order to comply with other United States Department of Agriculture programs.

d. A late planting agreement will be available.

2. Causes of Loss

The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

a. Adverse weather conditions;

b. Fire;

c. Insects;

d. Plant disease;

e. Wildlife;

f. Earthquake;

g. Volcanic eruption; or

h. Failure of the irrigation water supply due to an unavoidable cause occurring after the beginning of planting;

unless those causes are excepted, excluded, or limited by the actuarial table or section 9 of the general crop insurance policy.

3. Annual Premium

The annual premium amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting.

4. Insurance Period

a. In lieu of subsection 7.(b) of the general crop insurance policy, (harvest of the unit) insurance will end upon removal of the cotton from the field.

b. The calendar date for the end of the insurance period is January 31.

5. Unit Division

a. In lieu of subsections 17.q.(1) and 17.q.(2) of the general crop insurance policy, a unit will be all insurable acreage of cotton in the county in which you have an insured share and which is identified by a single ASCS Farm Serial Number at the time insurance first attaches for the crop year.

b. We may reject or modify an ASCS reconstitution for the purpose of FCIC unit definition if the reconstitution was in whole or in part to defeat the purpose of the Federal Crop Insurance Program or to gain disproportionate advantage under this policy.

c. If you have a loss on any unit, production records for all harvested units must be provided. Production that is commingled between units will cause those units to be combined.

6. Notice of Damage or Loss

In addition to the provisions in section 8 of the general crop insurance policy:

a. You may not destroy any cotton on which an indemnity will be claimed until we give consent.

b. You must give us notice if you are going to replant any acreage originally planted to ELS cotton to AUP cotton.

c. For purposes of section 8 of the general crop insurance policy the representative sample of the unharvested crop must be at least 10 feet wide and the entire length of the field.

7. Claim for Indemnity

a. The indemnity will be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of cotton to be counted (see subsection 7.b.);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this product by your share.

b. The total production to be counted for a unit will include all harvested and appraised production.

(1) Any mature ELS cotton production will be reduced when, due solely to insured causes, the quality of the ELS cotton produced is such that the price quotation for ELS cotton of like grade, staple length, and micronaire reading (price A) is less than 75 percent of price B. Price B is defined as the market price quotation for ELS cotton of the grade, staple length, and micronaire reading designated in our actuarial table for this purpose. The price quotations for prices A and B will be the market price quotations at the recognized market closes to the unit on the earlier of the day the loss is adjusted or the day the damaged ELS cotton was sold. In the absence of a price quotation on such date, the price quotations for the nearest prior date for which an ELS cotton price quotation was listed for both prices A and B will be used. The pounds of production to be counted will be determined by multiplying the number of pounds of mature production by price A and dividing the result by 75 percent of price B.

(2) Any AUP cotton harvested from acreage originally planted to ELS cotton in the same growing season will be reduced by the factor obtained by dividing the price of the AUP cotton by the price of ELS cotton of the grade, staple length, and micronaire reading shown in our actuarial table. The prices will be determined at the closest recognized market to the insured unit on the earlier of the date the loss is adjusted or the date the AUP cotton was sold.

(3) Appraised production to be counted will include:

(a) Unharvested production on harvested acreage and potential production lost due to uninsured causes; and

(b) Failure to follow recognized good cotton farming practices;

(c) Not less than the applicable guarantee for any acreage which is abandoned or put to another use without our written consent or damaged solely by an uninsured cause; and

(d) Not less than 25 percent of the production guarantee per acre for all unharvested acreage.

(4) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use will be considered production unless such acreage is:

(a) Not put to another use before harvest of cotton becomes general in the county and is reappraised by us;

(b) Further damaged by an insured cause and is reappraised by us; or

(c) Harvested.

(5) Any appraisal of the AUP cotton on acreage originally planted to ELS cotton will be reduced by the factor determined in section 7.b.(2) above. If prices are not yet available, the previous year's season average price will be used.

(6) The cotton stalks must not be destroyed on any acreage for which an indemnity is claimed, until we give consent. An appraisal of not less than the guarantee may be made on acreage where the stalks have been destroyed without our consent.

8. Cancellation and Termination Dates

The cancellation and termination dates are:

States	Cancellation and termination dates
New Mexico	April 15.
All other states	March 31.

9. Contract Changes

The date by which contract changes will be available in our service office is November 30 preceding the cancellation date.

10. Meaning of Terms

a. "Cotton" means Extra Long Staple cotton and acreage replanted to American Upland Cotton after ELS was destroyed by an insured cause.

b. "County" means the land defined in the general crop insurance policy and any land identified by an ASCS Farm Serial Number for the county but physically located in another county.

c. "ELS Cotton" means Extra Long Staple cotton (also called Pima Cotton and American-Egyptian Cotton).

d. "Harvest" means the removal of the seed cotton on each acre from the open cotton boll or the severance of the open cotton boll from the stalk by either manual or mechanical means on acreage from which at least 25 percent of the per acre production guarantee is removed.

e. "Mature cotton" means ELS cotton which can be harvested either manually or mechanically and will include both unharvested and harvested cotton.

f. "Replanted" means performing the cultural practices necessary to replant acreage to AUP cotton after ELS cotton was destroyed by an insured cause in the same growing season.

g. "Skip-row" means planting patterns consisting of alternating rows of cotton and fallow rows (or rows of another crop) as defined by ASCS.

Done in Washington, DC, on August 27, 1987.

E. Ray Fosse,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 87-21182 Filed 9-14-87; 8:45 am]

BILLING CODE 3410-08-M

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Regulation Z; Docket No. 4-0613]

Truth in lending; Maximum Interest Rate Limitations

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board is proposing to revise regulation Z (Truth in Lending) to implement Title XII, section 1204 of the Competitive Equality Banking Act of 1987. Section 1204 provides that, effective December 8, 1987, any adjustable rate mortgage loan originated by a creditor must include a limitation on the maximum interest rate that may apply during the term of the mortgage loan. The proposed amendment to Regulation Z incorporates the substance of the new law into the regulation. The proposed amendment would apply to both open-end and closed-end consumer credit transactions covered by the Truth in Lending Act and Regulation Z. The amendment would apply to all dwelling-secured extensions of credit that require variable rate disclosures under Regulation Z, as well as open-end dwelling-secured lines of credit in which the creditor reserves the contractual right to make changes in the terms and conditions of the account from time to time—including rate changes. The amendment would apply only to closed-end credit transactions and open-end credit programs entered into on or after December 8, 1987. The rule would not apply retroactively to existing transactions or programs. Under the proposed amendment, creditors would be required to specify in their credit contracts the maximum interest rate (a lifetime cap) that may be imposed.

DATE: Comments must be received on or before October 14, 1987.

ADDRESS: Comments should be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington DC 20551, or delivered to the Mail Services courtyard entrance on 20th Street, between C Street and Constitution Avenue NW., Washington D.C., between 8:45 a.m. and 5:15 p.m. weekdays. Comments should include a reference to Docket No. R-0613. Comments may be inspected in Room B-1122 between 8:45 a.m. and 5:15 p.m. weekdays.

FOR FURTHER INFORMATION CONTACT: Adrienne D. Hurt, Senior Attorney, Division of Consumer and Community Affairs, at (202) 452-2412 or 452-3867; for the hearing impaired *only*, contact Earnestine Hill or Dorothea Thompson, Telecommunications Device for the Deaf at (202) 452-3544, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

(1) Background

On August 10, 1987, the Competitive Equality Banking Act of 1987, Pub. L 100-86, 101 Stat. 552, was enacted into law. Title XII, section 1204 of the act provides that "[a]ny adjustable rate mortgage loan originated by a creditor shall include a limitation on the maximum interest rate that may apply during the term of the mortgage loan." (Section 1204 does not set the maximum interest rate.) An adjustable rate mortgage loan is defined in section 1204 as any loan secured by a lien on a one-to-four family dwelling unit, where the loan is made pursuant to an agreement under which the creditor may, from time to time, adjust the rate of interest. Creditors who regularly extend credit for personal, family or household purposes are subject to the statutory requirement. Section 1204 further provides that failure to comply with the requirement is to be treated as a violation of the Truth in Lending Act. The section makes specific reference to civil liability and administrative enforcement under sections 130 and 108 of Truth in Lending, respectively. The law becomes effective on December 8, 1987.

Section 1204 was a floor amendment to the Senate's omnibus financial institutions bill, and was agreed to by House conferees working on the final bill. There is very little legislative history on section 1204 indicating the intent of Congress in enacting this provision, other than comments offered on the Senate floor. (*See* 133 Cong. Rec. S3945 (daily ed. March 20, 1987))

Given the broad language of section 1204, most of the questions asked about the new law concern the scope of its coverage. There have also been questions about the manner of compliance. Creditors have asked the following questions.

—Does the statute apply to business credit as well as consumer credit?

—Does the statute apply to both open-end and closed-end credit?

—Will the statute be applied retroactively to existing credit agreements, more specifically, assuming that open-end credit is covered by section 1204, will the statute apply to new advances under an open-end credit plan that had been entered into prior to the effective date of the law?

—Again assuming coverage, can a creditor raise the maximum interest rate on an open-end plan by use of a change in terms notice? (*See* § 226.9(c) of Regulation Z) Alternatively, can a creditor terminate an account when the maximum rate is reached?

—With regard to closed-end credit, if a consumer refinances or assumes an extension of credit, can the creditor increase the maximum rate?

—Does the statute require a creditor to include a limitation on incremental or periodic caps in a credit contract or only a limitation on a lifetime cap?

—Does the maximum interest rate have to be stated as a sum certain?

(2) The Proposed Amendment to Regulation Z

The proposed amendment to Regulation Z would incorporate the substance of section 1204 into a new § 226.30 to Subpart D of the regulation. In addition, technical amendments would be made to § 226.1 of Regulation Z, in the paragraphs on Board authority, organization of the regulation, and

enforcement and liability (to incorporate by reference administrative enforcement and civil liability provisions of the Truth in Lending Act into section 1204(c)). The amendment would apply to dwelling-secured extensions of credit covered by the Truth in Lending Act in which the creditor may make interest rate adjustments. Thus, it will apply only to consumer credit and not to business credit. The amendment covers both open-end and closed-end credit transactions. Thus, all dwelling-secured transactions that currently require variable rate disclosures under Truth in Lending will have a lifetime cap on the rate of interest that can be imposed. (*See* § 226.6(a)(2) footnote 12, and § 226.18(f) to Regulation Z; *see also* comment 226.6(a)(2)–2 and comments 18(f)–1 and 18(f)–6 in the Official Staff Commentary to Regulation Z regarding coverage of the variable rate disclosure requirements.)

In addition, there is one category of transactions that does not require variable rate disclosures under the Truth in Lending Act, but that falls squarely within the definition of transactions covered by section 1204: open-end home equity lines of credit in which the creditor reserves the contractual right to make rate adjustments on the account. (*See* comment 6(a)(2)–2 of the commentary) These transactions are not considered variable rate plans for purposes of Truth in Lending disclosure because the rate changes are discretionary and are not tied to an index or formula. (Although variable rate disclosures are not given, creditors are required under the Truth in Lending Act to provide written notice to a consumer of each rate increase in advance of the increase.) Under the proposal, creditors offering such programs will be required to set a lifetime cap on the interest rate.

The proposed amendment will cover applicable transactions entered into on or after December 8, 1987, the effective date of the law. The amendment would not apply retroactively to existing credit contracts. Consequently, new advances under preexisting open-end credit plans are not subject to section 1204.

Creditors would be required to specify in their credit contracts a maximum interest rate (a lifetime cap) that could be imposed. It is the creditor's determination as to what that rate will be. The rate must be stated as a sum certain or in a manner in which the consumer may easily ascertain the maximum rate. For example, the following statements would be sufficiently specific:

—The maximum interest rate will not exceed X%.

—The interest rate will never be higher than X percentage points above the initial rate of Y%.

Statements like the following, however, do not indicate a sum certain and would not comply with the regulation.

—The interest rate will never be higher than X percentage points over the going market rate.

—The interest rate will not exceed the state usury ceiling which is currently X%.

The latter example does not mean that a creditor may not establish a state usury ceiling as the maximum rate to be imposed on a credit transaction, since choice of a maximum rate is within the creditor's discretion. The problem with the letter statement is that it suggests that if the state usury ceiling later increases, then the maximum rate imposed on the credit transaction will increase. That would not be consistent with the law since section 1204 requires that a maximum lifetime cap be set for the full term of the obligation. Similarly, if a creditor were to use a change in terms notice to increase a maximum interest rate that has been imposed on an open-end adjustable rate plan, the creditor would not, in fact, have set a maximum rate on the credit plan in accordance with section 1204. Therefore, creditors may not change the terms of existing plans to increase the maximum rate.

A creditor is not prohibited from terminating an open-end plan when the maximum interest rate set under the plan is reached. Nevertheless, the Board is concerned that such a practice could have an adverse effect on consumers. Of particular concern is the possibility that a creditor, in addition to suspending the consumer's ability to obtain additional funds under the line of credit, might reserve the right to require the consumer to pay the entire balance outstanding at the time the account is terminated because the maximum interest rate has been reached. Regulation Z does not currently call for disclosure of this right to terminate. The Board would like comment on whether an open-end creditor that has the right to terminate a plan, and requires payment of the outstanding balance in full when the maximum interest rate set under the plan is reached, should be required to specifically dislose this fact in the credit contract and/or the initial Truth in Lending disclosures.

The Board would also like to note here that it is currently studying the broader issue of whether the Truth in Lending disclosures for open-end equity plans should be revised to take account of the special characteristics of these programs, which differ in many ways from the more traditional open-end credit programs. The terms and conditions of these programs are generally more complex and the consequences for consumers greater if they fail to understand the program. The Board will probably be considering this fall whether additional or different disclosure requirements should be applicable to open-end equity lines of credit.

With respect to closed-end credit transactions subject to section 1204, the maximum interest set may not be increased during the term of the transaction. If there is a refinancing as defined in § 226.20(a), an assumption as defined in § 226.20(b), or any other situation constituting a new credit transaction subject to Regulation Z, however, a new interest rate cap may be set.

If any further guidance for compliance with section 1204 is necessary, the Board expects to incorporate it into the seventh proposed update to the Official Staff Commentary to Regulation Z that will be published for comment in November 1987.

(3) Interim Compliance Rule for Certain Closed-End Creditors

Section 105(d) of Regulation Z requires the Board, except in limited circumstances, to delay the effective date of any change to Truth in Lending disclosure requirements to the October 1 following by six months the date a rule is promulgated. The implementation of section 1204 will *not* change previous Truth in Lending disclosure *requirements*. Nevertheless, some creditors that currently offer uncapped closed-end adjustable rate loans may have to change their Truth in Lending disclosure *forms* to add a disclosure of the lifetime cap. (See § 226.18(f)(2) of Regulation Z.) Section 226.17(a) provides that all required Truth in Lending closed-end disclosures must be grouped together and presented separately from the contract. (Open-end credit disclosures are not subject to such requirement.) When the Board takes final action on the proposed Truth in Lending disclosure rules for adjustable rate mortgage transactions (the ARMs proposal) now pending, (51 FR 42241, November 24, 1986) these creditors might again have to alter their closed-end disclosure forms.

To avoid the burden of changing Truth in Lending disclosure forms twice in a short period of time, the proposal would allow closed-end creditors to have until

October 1, 1988 to make the necessary revisions to their disclosure forms. For the interim period between December 8, 1987 and October 1, 1988, compliance with section 1204—that is, placing the maximum rate limitation in the credit contract—would constitute compliance with the Regulation Z requirement to disclose interest rate caps in a closed-end variable rate credit transaction.

(4) Comments Requested

Interested persons are invited to submit written comments on the proposed amendment and other matters addressed in this notice. After the close of the comment period, based upon it analysis of the comments received, the Board will publish in the **Federal Register** notice of final action.

The comment period ends on October 14, 1987. Section 1204 becomes effective December 8, 1987. It is therefore imperative that comment be made in a timely manner. Because prompt resolution of these matters is essential and in the public interest, the expanded rulemaking procedure set forth in the Board's policy statement of January 15, 1979 (44 FR 3957) has not been followed.

(5) Economic Impact Statement

The Board's Division of Research and Statistics has prepared an economic impact statement on the proposed revisions to Regulation Z. A copy of the analysis may be obtained from Publications Services, Board of Governors of the Federal Reserve System, Washington, DC, 20551, at (202) 452-3245.

List of Subjects in 12 CFR Part 226

Advertising, Banks, Banking, Consumer protection, Credit, Federal Reserve System, Finance, Penalties, Truth in Lending.

(6) Text of Proposed Revision

Certain conventions have been used to highlight the proposed revisions. New language is shown inside arrows, while language that would be removed is set off with brackets. Pursuant to authority granted in Title XII, section 1204(b) of the Competitive Equality Banking Act of 1987, Pub. L. 100-86, 101 Stat. 552, the Board proposes to amend Regulation Z (12 CFR Part 226) as follows:

PART 226—TRUTH IN LENDING

1. The authority citation for Part 226 is revised to read as follows:

Authority: Sec. 105, Truth in Lending Act, as amended by sec. 605, Pub. L. 96-221, 94 Stat. 170 (15 U.S.C. 1604 *et seq.*); sec. 1204(c), Competitive Banking Equality Act, Pub. L. 100-86, 101 Stat. 552.

2. Section 226.1 is amended by revising paragraph (a), (d) introductory text, (d) (4), and (e) to read as follows:

Subpart A—General

§ 226.1 Authority, purpose, coverage, organization, enforcement and liability.

(a) *Authority.* This regualation, known as Regulation Z, is issued by the Board of Governors of the Federal Reserve System to implement the federal Truth in Lending and Fair Credit Billing Acts, which are contained in Title I of the Consumer Credit Protection Act, as amended (15 U.S.C. 1601 *et seq.*) This regulation also implements title XII, section 1204 of the Competitive Equality Banking Act of 1987 (Pub. L. 100-86, 101 Stat. 552).

* * * * *

(d) *Organization.* The regulation is divided into subparts and appendices as follows:

* * * * *

(4) Subpart D contains rules on oral disclosures, Spanish language disclosure in Puerto Rico, record retention, effect on state laws, [and] state exemptions [.], and rate limitations.

(e) *Enforcement and liability.* Section 108 of the act contains the administrative enforcement provisions. Sections 112, 113, 130, 131, and 134 contain provisions relating to liability for failure to comply with the requirements of the act and the regulation. Section 1204(c) of title XII of the Competitive Equality Banking Act of 1987, Pub. L. 100-86, 101 Stat. 552, incorporates by reference administrative enforcement and civil liability provisions of sections 108 and 130 of the act.

* * * * *

3. A new § 226.30 is added to Subpart D to read as follows:

Subpart D—Miscellaneous

§ 226.30 Limitation on rates.

In a consumer credit transaction subject to the act and this regulation, a creditor shall include in the credit contract a limitation on the maximum interest rate that may be imposed during the term of the obligation [1] when—

(a) The annual percentage rate may increase after consummation or, in the case of open-end credit, when the annual percentage rate may change during the plan; and

(b) The transaction is secured by a dwelling.

[1] When a creditor changes its credit contract(s) to comply with this section, that will constitute compliance with the disclosure requirements of § 226.18(f)(2) until October 1, 1988.

By order of the Board of Governors of the Federal Reserve System, September 11, 1987.

William W. Wiles,

Secretary of the Board.

[FR Doc. 87-21294 Filed 9-14-87; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

[Regulations No. 16]

Supplemental Security Income for the Aged, Blind, and Disabled; How We Count Earned and Unearned Income; Funds Used To Pay Indebtedness

AGENCY: Social Security Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The proposed rule would clarify the regulations to reflect a longstanding Social Security Administration (SSA) policy that amounts withheld from earned and unearned income for payment of a debt or other legal obligation are included in income for the purpose of determining eligibility and payment amount under the Supplemental Security Income (SSI) program.

DATE: To be sure that your comments are considered we must receive them no later than November 16, 1987.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203, or delivered to the Office of Regulations, Social Security Administration, 3-B-4 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, between 8:00 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Irving Darrow, Esq., Legal Assistant, 3-B-3 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 597-3409.

SUPPLEMENTARY INFORMATION: To be eligible for SSI, an individual's income must not exceed certain limits set by law. In addition, the amount of an eligible individual's SSI benefit is determined by the amount of his or her income.

Section 1612(a)(1) of the Social Security Act (the Act) provides that earned income, for SSI purposes, includes wages as determined under section 203(f)(5)(C) of the Act. Since section 203(f)(5)(C) does not specifically exclude wages which are withheld to satisfy an indebtedness, such amounts are charged as wages for Title II purposes. Thus, such amounts also are considered as wages, and therefore as earned income, for Title XVI purposes.

Section 1612(a)(2) of the Act states that unearned income includes "all other income" which does not meet the statutory definition of earned income.

Section 1612(b) of the Act lists items which are specifically excluded from income. Since amounts which are withheld from income, either earned or unearned, to pay an indebtedness or other legal obligation are not specifically excluded, it is the policy of SSA to treat such amounts as income. Examples of such includable amounts are monies withheld from an individual's income by garnishment, child support payments (both court ordered and voluntary), and payment of other debts. Although our longstanding policy has been to consider such income, our regulations have explicitly provided only for considering garnished income and payments such as Medicare premiums. The proposed rule would make explicit that any income withheld to pay a debt would be considered income.

The effect of not considering such funds as income is to have the SSI program subsidize child support obligations or other debts, which is not its purpose as a program designed to meet the subsistence needs of its claimants only. While we do have authority under the deeming provisions in section 1614(f) of the Act to disregard portions of a deemor's income to satisfy the needs of the deemor's ineligible dependent children, we do not have authority under the Act to allocate a portion of an SSI claimant's income for use of the claimant's dependents. When court-ordered obligations reduce income to the extent that there are insufficient funds to meet food, clothing, and shelter needs, an individual may petition the court to have the payments reduced. In addition, when an individual voluntarily incurs a debt that is to be repaid from future income, the terms and amount of the payment installment are, at least initially, within the individual's control.

To lend further support to our policy of counting amounts which are withheld from income to pay a debt or other legal obligation, we propose to revise 20 CFR 416.1102 to state that sometimes income also includes more or less than actually received. We may include more *or* less unearned income than actually received, but we do not include less earned income than actually received since gross wages are considered earned income. We also propose to cross refer to the specific regulations on earned income (20 CFR 416.1110) and unearned income (20 CFR 416.1123(b)(2)) which explain this concept in more detail.

We also propose to expand 20 CFR 416.1110 and 416.1123(b)(2) to state specifically our policy with respect to funds which are pledged or which are withheld from earned and unearned income, voluntarily or by court order, for payment of a debt or other legal obligation or to make any other payments such as Medicare premiums. That is, funds which are withheld to pay an indebtedness or other legal obligation or to make any other payment will be listed as situations where we include in earned and unearned income more than actually received.

Regulatory Procedures

Executive Order No. 12291

The Secretary has determined that this is not a major rule under Executive Order 12291 because these proposed regulations will not result in costs or savings, or otherwise meet any of the threshold criteria for a major rule. Therefore, a regulatory impact analysis is not required.

Regulatory Flexibility Act

We certify that these proposed regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities because they will affect only individuals and States. Therefore, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, 5 U.S.C. 601 through 612, is not required.

Paperwork Reduction Act of 1980

These proposed regulations would impose no additional reporting and recordkeeping requirements necessitating clearance by the Office of Management and Budget.

(Catalog of Federal Domestic Assistance Programs No. 13.807, Supplemental Security Income Program)

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Supplemental security income.

Dated: June 25, 1987.

Dorcas R. Hardy,

Commissioner of Social Security.

Approved: July 31, 1987.

Otis R. Bowen,

Secretary of Health and Human Services.

Part 416 of Title 20 of the Code of Federal Regulations is amended as follows:

PART 416—[AMENDED]

1. The authority citation for Subpart K of Part 416 continues to read as follows:

Authority: Secs. 1102, 1602, 1611, 1612, 1613, 1614(f), 1621, and 1631, of the Social Security Act; 42 U.S.C. 1302, 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, and 1383; sec. 211 of Pub. L. 93–66, 87 Stat. 154; sec. 2639 of Pub. L. 98–269, 98 Stat. 1144.

2. Section 416.1102 is revised to read as follows:

§ 416.1102 What is income.

Income is anything you receive in cash or in kind that you can use to meet your needs for food, clothing and shelter. Sometimes income also includes more or less than you receive (see, §§ 416.1110 and 416.1123(b)). In-kind income is not cash, but is actually food, clothing, or shelter, or something you can use to get one of these.

3. In § 416.1110, the introductory material preceding paragraph (a) is revised to read as follows:

§ 416.1110 What is earned income.

Earned income may be in cash or in kind. We may include more of your earned income than you actually receive. We include more than you actually receive if amounts are withheld from earned income because of a garnishment or to pay a debt or other legal obligation, or to make any other payments. Earned income consists of the following types of payments:

* * * * *

4. In § 416.1123, paragraph (b)(2) is revised to read as follows:

§ 416.1123 How we count unearned income.

* * * * *

(b) *Amount considered as income.* * * *

(2) We also include more than you actually receive if amounts are withheld from unearned income because of a garnishment, or to pay a debt or other legal obligation, or to make any other payment such as payment of your Medicare premiums.

* * * * *

[FR Doc. 87–21040 Filed 9–14–87; 8:45 am]
BILLING CODE 9190–11–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD11-11-87-07]

Anchorage Ground Regulations; Anaheim Bay Harbor, CA

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The U.S. Naval Weapons Station, Seal Beach, California, has requested the Coast Guard amend 33 CFR 110.215. This change will revise the Explosive Anchorage Regulations for the waters of Anaheim Bay Harbor, California, by adding the area between the Entrance Channel and the West Jetty to the existing anchorage. This action is necessary to conform the regulation to the present usage of the anchorage. Reference to Commandant, Eleventh Naval District, a position which no longer exists, will be deleted.

DATE: Comments must be received on or before October 30, 1987.

ADDRESS: Comments should be mailed to Commander (oan), Eleventh Coast Guard District, Room 702, Union Bank Building, 400 Oceangate, Long Beach, CA 90822-5399. The comments and other materials referenced in this notice will be available for inspection and copying at the Union Bank Building, Room 702, 400 Oceangate, Long Beach, CA. Normal office hours are between 8:00 a.m. and 4:00 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade M.J. Lodge, Aids to Navigation Branch, Eleventh Coast Guard District, Suite 702, 400 Oceangate, Long Beach, CA. (213) 499-5410.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD11-11-87-07) and the specific section of the proposal to which their comments apply and give the reasons for their comments. The regulations may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests are received and the Coast Guard determines that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The drafters of this notice are Lieutenant Commander F.L. McClain, project officer, Marine Safety Division, Eleventh Coast Guard District; Lieutenant Junior Grade M.J. Lodge, project officer, Aids to Navigation Branch, Eleventh Coast Guard District, and Lieutenant Commander Arthur E. Brooks, project attorney, Eleventh Coast Guard District Legal Office.

Discussion of Proposed Regulations

The United States Navy has requested amendment of the Explosive Anchorage Regulations for the waters of Anaheim Bay Harbor, California. The area presently designated as an explosive anchorage has proven inadequate for the number of barges needed to move explosives at U.S. Naval Weapons Station, Seal Beach. To accommodate the increase in barge traffic, three more buoys were placed on the west side of the harbor in 1983. The proposed rules will facilitate naval operations and enhance public safety by amending the regulations designating the explosive anchorage to conform to present usage. This regulation is issued pursuant to 33 U.S.C. 471 as set out in the authority citation for all of Part 110.

Economic Assessment and Certificate

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulations and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. Only a small number of vessels will be involved and the U.S. Navy will cooperate with public use of the area to the extent allowed by explosive loading requirements. Since the impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 110 of Title 33, Code of Federal Regulations as follows:

PART 110—[AMENDED]

1. The authority citation for Part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 2030, 2035, and 2071; 49 CFR 1.46(e) and 33 CFR 1.05-1(g). Section 110.1a and each section listed in § 110.1a are also issued under 33 U.S.C. 1223 and 1231.

2. Section 110.215 is revised to read as follows:

§ 110.215 Anaheim Bay Harbor, California; U.S. Naval Weapons Station, Seal Beach, California; Naval Explosives Anchorage.

(a) *The anchorage ground.* The waters of Anaheim Bay Harbor between the east side of the Entrance Channel and the East Jetty, and the west side of the Entrance Channel and the West Jetty as outlined in the following two sections:

(1) East Side:

Latitude	*Longitude*
33°44'03.0" N.	118°05'35.0" W.
33°43'53.0" N.	118°05'15.0" W.
33°43'49.0" N.	118°05'18.0" W.
33°43'36.5" N.	118°05'56.0" W.
33°43'37.0" N.	118°05'57.0" W.
33°44'03.0" N.	118°05'35.0" W.

(2) West Side:

Latitude	*Longitude*
33°44'05.0" N.	118°05'40.0" W.
33°44'06.0" N.	118°05'56.5" W.
33°44'01.0" N.	118°06'01.0" W.
33°43'40.5" N.	118°06'03.0" W.
33°43'39.5" N.	118°06'02.0" W.
33°44'05.0" N.	118°05'40.0" W.

(b) *The regulations.* (1) This area is reserved for use of naval vessels carrying or transferring ammunition or explosives under standard military restrictions as established by the Safety Manual, Armed Service Explosives Board.

(2) No pleasure or commercial craft shall navigate or anchor within this area at any time without first obtaining permission from the Commanding Officer, Naval Weapons Station, Seal Beach, California. This officer will extend full cooperation relating to public use of the area and will fully consider every reasonable request for the passage of small craft in light of requirements for national security and safety of persons and property.

(3) Nothing in this section shall be construed as relieving the owner or operator of any vessel from the regulations contained in § 204.195 of Title 33, covering navigation in Anaheim Bay Harbor.

(4) The regulations in this section shall be administered by the Commanding Officer, U.S. Naval Weapons Station, Seal Beach, California, and by such agencies as he may designate, and enforced by the Captain of the Port, Los Angeles-Long Beach, California.

Dated: September 9, 1987.

A.B. Beran,

Rear Admiral (lower half), U.S. Coast Guard, Commander, Eleventh Coast Guard District.

[FR Doc. 87-21097 Filed 9-14-87; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[CGD8-87-10]

Safety Zone; Vicinity of the Old River Control Structure, Mississippi River

AGENCY: Coast Guard, DOT.

ACTION: Notice of Proposed rule making.

SUMMARY: The Coast Guard is considering amending its regulations, Title 33 CFR 165.802, by extending the safety zone in the vicinity of the Old River Control Structure to include the area around the New Old River Auxiliary Control Structure located at 311.2, RDB, AHP. These structures control the distribution of water between the Mississippi River, Red River, and the Atchafalaya River. Recent completion of the New Auxiliary Control Structure necessitates extending the area of the safety zone. The extension of the safety zone will assist in protecting the structures, thus preventing interruption of flow control with serious downstream ramifications for flood control, navigation and municipal/industrial water supplies.

DATE: Comments must be received on or before October 30, 1987.

ADDRESSES: Comments should be mailed to U.S. Coast Guard Captain of the Port, 4640 Urquhart Street, New Orleans, LA 70117-4698. The comments and other materials referenced in this notice will be available for inspection and copying at Captain of the Port Office, Room A-305. Normal office hours are between 7:00 a.m. and 3:30 p.m. Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: LTJG Patrick J. Galvin, Waterway Safety Officer, C/O U.S. Coast Guard Captain of the Port, 4640 Urquhart Street, New Orleans, LA 70117-4698, Telephone: (504) 589-7127.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data or arguments. Persons submitting comments should include their names and addresses, identify this notice CGD8-87-, the specific section of the proposal to which their comments apply, and give reasons for each comment.

The regulations may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before the final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The drafters of this regulation are LTJG Patrick J. Galvin, Project Officer for the Captain of the Port, and LCDR James J. Vallone, Project Attorney, Eighth Coast Guard District Legal Office.

Discussion of Regulation

The Old River Control Structure located at Mile 314.5 RDB, AHP, completed in October 1983, was built to control the distribution of water between the Mississippi River and the Atchafalaya River. The New Auxiliary Old River Control Structure located at Mile 311.2 RDB, AHP, completed March 1987, was built to reduce the flow through the Old River Structure thereby reducing the undermining of the Old River Control Structure. Completion of the New Auxiliary Control Structure necessitates extending the area of the safety zone. The regulation will assist in protecting the structures, thus preventing interruption of flow control with serious downstream ramifications for flood control, navigation and municipal/industrial water supplies.

The regulation will also assist in preventing the entry of vessels into an area of an extreme navigational safety hazard.

This regulation is issued pursuant to 33 U.S.C. 1225 and 1231 as set out in the authority for all of part 165

Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. The only affect of the proposed regulation is to establish an area of controlled access in the vicinity of The Old River Control Structure and the New Old River Auxiliary Control Structure. Limited access in this area will not impede normal navigation.

Since the impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 165

Inland waterway navigation regulations.

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Proposed Regulation

In consideration of the foregoing, the Coast Guard proposes to amend Part 165 of Title 33, Code of Federal Regulations as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6-04-6, and 160.5.

2. Section 165.802 is revised to read as follows:

§ 165.802 Lower Mississippi River Vicinity of Old River Control Structure Safety Zone.

(a) The area enclosed by the following boundary is a safety zone—from the Black Hawk Point Light, mile 316.1 AHP LMR to a point opposite the Wilkinson Light, mile 310.0 AHP along the levee above the right descending bank; thence to the opposite levee a line perpendicular to the channel centerline; thence along the levee to the upstream end of the Old River Overbank structure mile 315.5 AHP LMR; thence along a line to the Black Hawk Point Light.

(b) Any vessel desiring to enter this safety zone must first obtain permission from the Captain of the Port, New Orleans. The operator of the Corp of Engineers' picket boat on scene is delegated the authority to permit entry into this safety zone.

Dated: July 25, 1987.

J.E. Lindak,

Captain, U.S. Coast Guard, Captain of the Port, New Orleans, LA.

[FR Doc. 87-21101 Filed 9-14-87; 8:45 am]

BILLING CODE 4910-14-M

POSTAL SERVICE

39 CFR Part 20

Proposed Changes in Express Mail International Service (EMS) Rates

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: In an effort to be more responsive to the needs of the marketplace, the Postal Service proposes new On Demand and Custom Designed Service half-pound and pound rates for Express Mail International Service (EMS). These new rates will be compensatory and will establish reasonable lower prices for lighter weight parcels and letters.

Lists of the new EMS rates, by rate group, together with a listing of the countries in each rate group are provided in the tables below.

DATE: Comments must be received on or before October 15, 1987.

ADDRESS: Written comments should be directed to the General Manager, Rate Development Division, Office of Rates, Rates and Classification Department, U.S. Postal Service, Washington, DC 20260–5352. Copies of all written comments will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in Room 8620, 475 L'Enfant Plaza West SW., Washington, DC 20260–5352.

FOR FURTHER INFORMATION CONTACT: Tom Philson, (202) 268–2674 or Duane Redic (202) 268–2677.

SUPPLEMENTARY INFORMATION: The lowest weight category for Express Mail International Service is currently one pound, yet customers often require expedited delivery of items that weigh less than this amount. In response to the needs of the marketplace, the Postal Service proposes a new half-pound rate category and an adjustment in the pound rate for EMS pieces. The rates for Express Mail International Service items over one pound and all other applicable charges remain as published at 49 FR 50326 (December 27, 1984).

The *International Mail Manual* is incorporated by reference in the Code of Federal Regulations, 39 CFR 20.1. Rate changes in the manual, as well as changes to Publication 273, *Express Mail International Service Guide*, will be made in due course. Accordingly, although 39 U.S.C. 407 does not require advance notice and the opportunity for submission of comments on international service, and the provisions of the Administrative Procedure Act regarding proposed rulemaking (5 U.S.C. 553) do not apply (39 U.S.C. 410(a)), the Postal Service invites interested persons to submit written data and views concerning the proposed new rates for Express Mail International Service which are presented in the tables below.

List of Subjects in 39 CFR Part 20

Postal Service, Foreign relations.

PART 20—[AMENDED]

The authority citation for Part 20 continues to read as follows:

Authority: 5 U.S.C. 552(a): 39 U.S.C. 401, 404, 407, 408.

Express Mail International Service (EMS) Proposed On Demand Service Rate Changes

Pounds (up to and including)	Group			
	1	2	3	4
1/2	[1] $18.00	[2] $18.00	$18.00	$18.00
1	[1] 21.00	[2] 21.00	21.00	21.00

[1] *Exception:* The proposed half-pound rate for On Demand Service to Canada is $13.00. The proposed pound rate for On Demand Service to Canada is $16.00.

[2] *Exception:* The proposed half-pound rate for On Demand Service to Great Britain and Northern Ireland is $15.00. The proposed pound rate for On Demand Service to Great Britain and Northern Ireland is $18.00.

Express Mail International Service (EMS) Proposed Custom Designed Service Rate Changes [3]

Pounds (up to and including)	Group			
	1	2	3	4
1/2	[1] $26.00	[2] $26.00	$26.00	$26.00
1	[1] 29.00	[2] 29.00	29.00	29.00

[1] Exception: The proposed half-pound rate for Custom Designed Service to Canada is $21.00. The proposed pound rate for Custom Designed Service to Canada is $24.00.

[2] Exception: The proposed half-pound rate for Custom Designed Service to Great Britain and Northern Ireland is $23.00. The proposed pound rate for Custom Designed Service to Great Britain and Northern Ireland is $26.00.

[3] Rates in this table are applicable to each piece of international Custom Designed Express Mail shiped under a Service Agreement providing for tender by the customer at a designated Post Office.

Express Mail International Service Countries in Each Rate Group

Country	Rate group	Maximum weight (pounds)
Argentina	3	44
Australia	4	44
Austria	2	44
Bahamas	2	44
Bahrain	3	44
Bangladesh	4	44
Barbados	2	44
Belgium	3	44

Express Mail International Service Countries in Each Rate Group—Continued

Country	Rate group	Maximum weight (pounds)
Bermuda	1	44
Brazil	4	50
Canada	1	66
Cayman Islands	2	44
Chad	3	44
Chile	3	33
China, People's Republic of	4	33
Colombia	2	44
Cote d'Ivoire (Ivory Coast)	3	44
Cyprus	3	44
Denmark	3	44
Djibouti	4	44
Egypt	3	44
Finland	3	44
France	3	44
Germany, Federal Republic of	2	44
Great Britain and Northern Ireland	2	44
Greece	3	44
Guyana	2	44
Hong Kong	3	44
Hungary	2	44
Iceland	3	44
India	4	44
Indonesia	4	22
Ireland	2	44
Israel	3	33
Italy	3	44
Japan	4	44
Jordan	3	44
Korea, Republic of	3	44
Kuwait	3	44
Luxembourg	2	44
Macao	3	44
Malaysia	4	33
Mali	3	44
Mexico	1	44
Netherlands	3	44
Netherlands Antilles	2	44
New Zealand	4	44
Niger	3	44
Nigeria	3	44
Norway	3	44
Oman	3	44
Pakistan	3	22
Panama	2	44
Portugal	2	44
Qatar	3	44
Saudi Arabia	3	22
Senegal	3	44
Singapore	4	44
South Africa	4	44
Spain	2	44
Sweden	3	44
Switzerland	3	33
Taiwan	3	33
Thailand	4	44
Tunisia	3	44
Turkey	3	44
United Arab Emirates	3	44
Uruguay	3	44
Venezuela	2	44

An appropriate amendment to 39 CFR 20.3 to reflect these changes will be published when the final rule is adopted.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 87-21179 Filed 9-14-87; 8:45 am]

BILLING CODE 7710-12-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 63

[CC Docket No. 87-266; FCC 87-243]

Telephone Company; Cable Television Cross-Ownership

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry.

SUMMARY: The Commission adopted a Notice of Inquiry on the possibility of presenting to the Congress proposals for modification of the Communications Act and Commission's Rules governing the provision of video programming by telephone common carriers within their operating areas. This action is taken to determine if such modifications are needed in view of the growth of cable television and changes in the telephone industry.

DATES: Comments must be received on or before October 2, 1987 and reply comments on or before November 2, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: James F. Ferris, (202) 634-1830.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Inquiry in CC Docket No. 87-266, adopted on July 16, 1987 and released on August 18, 1987. The full text of this action may be inspected in the Commission's Dockets Branch, Room 230, 1919 M St. NW., Washington, DC, during regular business hours or purchased from the Commission's duplicating contractor, International Transcription Services, 2100 M Street NW., Suite 140, Washington, DC 20037, telephone (202) 857-3800.

Summary of Notice of Inquiry

Growth of cable television and changes in the telephone industry may warrant reassessment of the Commission's restrictions on the rights of telephone common carriers to provide cable television services within their telephone operating areas (commonly called "Telephone Company—Cable Television Cross-ownership"). Those restrictions embodied in the Commission's rules and regulations were generally codified by Congress in its Cable Communications Policy Act of 1984, and were added as Title VI to the Communications Act of 1934, as amended. If the Commission determines through this Inquiry that modification of those restrictions would better serve the public interest, such findings may become the basis for legislative proposals to the Congress.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 87-21113 Filed 9-14-87; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87-350 , RM-5812]

Radio Broadcasting Services; Millinocket, ME

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by KATAHDIN Communications, Inc., proposing the substitution of FM Channel 235C2 for Channel 249A at Millinocket, Maine, and modification of its license for Station WSYY-FM, to reflect the new channel. Concurrence of the Canadian government is required for this allocation.

DATES: Comments must be filed on or before October 26, 1987, and reply comments on or before November 10, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: David M. Hunsaker, Putbrese & Hunsaker, 6800 Fleetwood Road, P.O. Box 539, McLean, Virginia 22101 (Counsel for the petitioner).

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No.87-350, adopted August 18, 1987, and released September 3, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-21111 Filed 9-14-87; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1002

[Ex Parte No. 246 (Sub-No. 5)]

Regulations Governing Fees for Services Performed in Connection With Licensing and Related Services—1987 Update; Correction

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is correcting errors in the listing of proposed fees for services performed in connection with licensing and related services performed by the Commission, which appeared in the **Federal Register** on August 28, 1987 (52 FR 32573).

FOR FURTHER INFORMATION CONTACT: Kathleen M. King, (202) 275-7428.

SUPPLEMENTARY INFORMATION: The ICC has proposed changes in its user fees to reflect the Commission's current cost for performing services. The proposed rules contained errors which are being corrected here.

Dated: September 9, 1987.

Kathleen M. King,

Acting Secretary.

PART 1002—[AMENDED]

§ 1002.2 [Amended]

The following corrections are made in the proposed fee chart in 49 CFR 1002.2 (f) Schedule of filing fees:

1. Item (9) of the chart on page 32574 is corrected to read:

(9) An application for motor carrier emergency temporary authority 49 U.S.C. 10928(c)(1).....$70

2. Item (33)(b) of the chart on page 32575 is corrected to read:

33(b) Exempt transaction under 49 CFR 1050.31.....$550

3. Item (48)(iv) of the chart on page 32575 is corrected to read:

(48)(iv) Exempt transaction [49 CFR 1080.2(d)].....$550

4. Item (51) of the chart on page 32575 is corrected to read:

(51) An application for approval of a rail rate association agreement 49 U.S.C. 10706.....$25,100

[FR Doc. 87-21158 Filed 9-14-87; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 52, No. 178
Tuesday, September 15, 1987

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ACTION

Proposed Student Community Service Project Guidelines

AGENCY: ACTION.

ACTION: Notice of proposed Student Community Service Project Guidelines.

SUMMARY: The following Notice sets out the guidelines under which Student Community Service Projects will operate. The Guidelines are divided into seven parts which deal with the overall program philosophy, responsibilities of the sponsor, staff, volunteers and volunteer placement sites. It also includes basic data on the administration of a Student Community Service Project.

DATE: Written comments should be submitted no later than October 15, 1987 to Valerie Wheeler, ACTION, 806 Connecticut Avenue, NW., Washington, DC 20525.

FOR FURTHER INFORMATION CONTACT: Valerie Wheeler, ACTION, 806 Connecticut Avenue, NW., Washington, DC, 800–424–8867 or 202–634–9424.

SUPPLEMENTARY INFORMATION: Section 420 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5060) was amended in 1979 to define the term regulation and to detail the procedures to be followed in prescribing regulations. Through its broad definition of a regulation, the section requires that "any rule, regulation, guidelines, interpretation, order, or requirement of general applicability" issued by the Director of ACTION must be published with a 30-day comment period except in certain limited circumstances. These Guidelines, although not regulations under the Administrative Procedure Act (5 U.S.C. 551 *et seq.*), may, in whole or in part, be required by our Act to be published in proposed form for comments.

ACTION has determined that these guidelines are not major rules as defined in E.O. 12291. This determination is based on the proposed grants' size and purpose, neither of which will result in the economic impact of a major rule. These guidelines are noted in the Catalog of Federal Domestic Assistance, Number 72.005.

I. Introduction

This Notice sets forth the guidelines under which Student Community Service Projects will operate. Student Community Service Project guidelines are contained in seven parts:

Part I—Introduction
Part II—Purpose
Part III—Grantee Eligibility and Selection Criteria
Part IV—Grant Application Procedures
Part V—Project Management
Part VI—Student Volunteer Assignments
Part VII—Restrictions

These guidelines supersede Student Service-Learning Program Guidelines published in the **Federal Register**, dated May 22, 1986, and instructions and technical assistance provided to grants previously awarded under Title I, Part B of the Domestic Volunteer Service Act of 1973, as amended (Pub. L. 93–113).

II. Purpose

Student Community Service Projects are authorized under Title I, Part B, section 111 and section 114 of the Domestic Volunteer Service Act of 1973, as amended (Pub. L. 93–113). The statutory purpose of these projects is to encourage students to undertake volunteer service in their communities in such a way as to enhance the educational value of the service experience, through participation in activities which address poverty-related problems. Student volunteers must be enrolled in secondary, secondary vocational or post-secondary schools on an in-school or out-of-school basis. They serve on a part-time, non-stipended basis.

Service opportunities must result in student volunteers gaining learning experiences through service in low-income communities, whether or not they receive academic credit.

The intent of Student Community Service Projects is to join community, school and youth in developing the scope and nature of volunteer experiences which serve the needs of poverty communities while securing resources by which the effort can be continued and expanded after federal support ends, if needed.

Local communities should determine what their problems are and how best to solve them. ACTION resources can be made available to assist in helping communities solve some of their problems through fostering student volunteer service. The community must generate increasing resources to enable the project to continue once ACTION grant funds are no longer provided. Technical assistance and training in project management, fundraising and recruiting will be provided by ACTION as required.

III. Grantee Eligibility and Selection Criteria

The following criteria will be employed by ACTION staff in the selection and approval of Student Community Service Projects:

A. The applicant must be a Federal, State, or local agency, or private non-profit organization or foundation in the United States, the District of Columbia, Virgin Islands, Puerto Rico, American Samoa, or Guam, which has the authority to accept and the capability to administer a student community service project grant.

B. Student volunteer activities must be poverty-related in scope and otherwise comply with the provisions of the legislative authority outlined in Part II.

C. Grant funds must be used to initiate or expand a student volunteer community service project which addresses the needs of the low-income community.

D. The grantee must develop and maintain community support for the Student Community Service Project through a planned program including public awareness and communications.

E. Community representation in the project's operation, including representatives of youth groups, school systems, educational institutions, etc., must be identified in the grant application.

F. The grant application must demonstrate that project goals and objectives are quantifiable, measurable, and show benefits to the student volunteers and to the low-income community. It must describe the expected learning outcomes which will result from the service experience. The projected number of student volunteers who will serve in the project and hours

of service are to be included in project goals and objectives.

G. The grant application must demonstrate how student volunteers will be recruited and how they will receive orientation appropriate to their assignments.

H. The grantee must identify resources which will permit continuation of the student oommunity service project upon the conclusion of Federal funding as outlined in Part II.

I. The grantee must comply with all programmatic and fiscal aspects of the project and may not delegate or contract this responsibility to another entity. This does not refer to agreements made with volunteer placement sites as discussed in Part V. This includes compliance with applicable financial and fiscal requirements established by ACTION or other elements of the Federal government.

J. The grantee must ensure compliance with the restrictions outlined in Part VI.

V. Grant Application Procedures

A. Scope of Grant

Student Community Service Project grants are awarded for up to a twelve-month period. Requests for second- or third-year reduced funding can be sought by grantees. Maximum federal awards over a period of three years are up to $15,000 for the first year, up to $10,000 for the second, and up to $5,000 for the third. The grantee is required to contribute a local share of at least $3,000 each year. Final determination of the actual amount of grant awards rests with the ACTION Regional Director.

ACTION seeks sponsoring organizations which can demonstrate the ability to raise sufficient local support in order to achieve 100% non-ACTION funding of their Student Community Service Projects after Federal funding ends.

Applicants for new or renewal grants must comply with the provisions of Executive Order 12372, the "Intergovernmental Review of Federal Programs and Activities" as set forth in 45 CFR Part 1233. Contact the ACTION State Office for specific instructions on how to fulfill this requirement.

B. Procedures for New Grantees

Project application forms are available from ACTION State of Regional Offices which will also establish schedules for application submission. Grant allowable costs are contained in ACTION Handbook 2650.2, *Grants Management Handbook for Grantees*, which is available from ACTION State or Regional offices.

Applications will be submitted to the appropriate ACTION State Office for programmatic and technical review. ACTION Regional Offices will review all new applications and send them to the Director of VISTA/Student Community Service Programs. The Director of VISTA/Student Community Service will render final decisions on new Student Community Service Project grant applications.

Regional Grants and Contracts Officers will issue Notices of Grant Awards upon notification from the Director of VISTA/Community Service Programs.

C. Procedures for Renewal Grantees

Applications for renewal will be evaluated using the factors identified in selecting initial grantees, as well as the grantees compliance with these guidelines and the grantee's performance during the previous year(s), particularly in the achievement of measurable goals and objectives. All project renewals are subject to the availability of funds.

Renewal applications from first- and second-year grantees are reviewed at the ACTION State Office level and submitted to the ACTION Regional Director for final approval.

If the renewal application is denied, the sponsor will be notified that ACTION intends to deny the application for renewal and the sponsor will be given an opportunity to show cause why the application should not be denied in accordance with 45 CFR Part 1206. This regulation is available from ACTION State or Regional Offices.

V. Project Management

Sponsors shall manage grants awarded to them in accordance with the provisions of these guidelines and ACTION Handbook 2650.2, *Grants Management Handbook for Grantees*, which will be furnished the sponsor at the time the initial grant is awarded.

Project support provided under an ACTION grant will be furnished at the lowest possible cost consistent with the effective operation of the project. Project costs for which ACTION funds are budgeted must be justified as being essential to project operation.

A. Local Support Contributions

The Student Community Service Project sponsor shall be responsible for providing at least $3,000 in non-federal share contribution for each year of the grant's operation. This amount can be obtained through cash and/or allowable in-kind contributions.

Local share can include, but is not limited to, cash or in-kind contributions such as office space, office equipment, supplies, accounting services, insurance, vehicles, telephones, printing, postage, recognition, travel and personnel which directly benefit the project.

B. Reporting Requirements

Sponsors must comply with fiscal reporting requirements as outlined in ACTION Handbook 2650.2 and must maintain records in accordance with generally accepted accounting principles. Records shall be kept available for inspection at the request of ACTION and shall be preserved for at least three years following the date of submission of the final Financial Status Report for each budget period.

If any litigation, claim, or audit is started before the expiration of the three-year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

A quarterly project progress report shall also be submitted to the ACTION State Office no later than 30 days after the end of each project quarter. The report shall include, but not be limited to, the following items:

1. A comparison of actual accomplishments with the goals and objectives established for the period.
2. The number of volunteers participating in the project during the quarter.
3. The number of volunteer hours generated during the quarter.
4. Problems, delays, or adverse conditions that have affected or will affect the attainment of project objectives.

C. Insurance

Grantees are responsible and must show evidence that student volunteers, while performing their assignments, have adequate accident, personal liability, and automobile liability insurance coverage consistent with other insurance maintained by the organization, and with sound institutional and business practices.

D. Transportation

The sponsor should structure student volunteer assignments to minimize transportation expenses and requirements.

When transportation is not provided, volunteers may be reimbursed for actual costs within the limitations prescribed by the local project and the availability of funds.

E. Project Staff

Each grantee will designate a person to serve as the project director. A full-

time director is desirable. A rationale for less than a full-time project director must be included with the project application. The project director should be hired within 30 days of project start date. Supervision of the project director is the responsibility of the sponsor.

Student Community Service Project staff are employees of the grantee organization and are subject to its personnel policies and practices.

F. Community Relations

1. Community Support

A viable community support system needs to be initiated to ensure project success and project continuation without Federal funds. Project support may be sought from school districts, governmental entities, religious and service groups, United Way, foundations, the business community, youth organizations, etc. One method of enlisting and maintaining community support for the project's operation is through the establishment of a project advisory council and/or working committee of the sponsor's board. Initial outreach to representatives of these groups, as evidenced by accompanying letters of support, is seen as an effective step to the development of the application.

2. Volunteer Recognition

With the participation of the sponsor, the staff, and volunteer placement sites, recognition should be given to student volunteers for service to the community. Projects can also provide recognition to local individuals and agencies or organizations for significant activities in support of project goals. Specific recognition activities should be reflected in the application narrative and budget.

3. Public Awareness

A strong community relations program ensures public awareness of start-up and continuing project activities. It is essential for the successful recruiting of volunteers and for the recognition of volunteer service. The project sponsor and project director should inform community, city and county officials, and the media about development, growth and success of the student community service project.

VI. Student Volunteer Assignments

Student volunteers are assigned to serve low-income communities in a variety of ways. Local sponsors are expected to develop volunteer service opportunities taking into consideration the focus of the project, the age, skills, and interests of student volunteers, as well as the value of the learning experience itself.

Clear understanding concerning the responsibilities of volunteer placement sites must be reached between representatives of the grantee's project staff and the volunteer site supervisor. Agreements may be formally arranged through the utilization of a Memorandum of Understanding, a Letter of Agreement or other means.

A formal agreement between the project staff and volunteer site will greatly assist the staff and volunteers in the management of volunteers. Issues and responsibilities concerning volunteer orientation/training, volunteer transportation, recognition and reporting of service hours, are functions outlined in this agreement.

VII. Restrictions

A. Special restrictions on Student Community Service Project grantees:

1. Political Activities

a. Grant funds shall not be used to finance, directly or indirectly, any activity to influence the outcome of any election to public office or any voter registration activity.

b. No project shall use grant funds to provide services, employ or assign personnel or volunteers for, or take any action which would result in the identification or apparent identification of the project with:

(1) Any partisan or non-partisan political activity or any other political activity associated with a candidate, or contending faction or group, in an election for public or party office;

(2) Any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any election; or

(3) Any voter registration activity.

2. Lobbying

a. No grant funds or volunteers may be used by the sponsor in any activity for the purpose of influencing the passage or defeat of legislation or proposals by initiative petition, except as follows:

(1) In any case in which a legislative body, a committee of a legislative body, or a member of a legislative body requests a student volunteer, a sponsor chief executive, his or her designee, or project staff to draft, review, or testify regarding measures or to make representations to such legislative body, committee, or member; or

(2) In connection with an authorization or appropriation measure directly affecting operation of the program.

Regulations found in 45 CFR Part 1226, "Prohibitions On Electoral and Lobbying Activities," apply fully hereto, and provide further details on the limitations of political and lobbying activities that apply to volunteers and sponsors. Each grantee is obliged to know, and communicate to staff and volunteers, the prohibitions included therein.

3. Special Restriction on State or Local Government Employees

If the sponsor receiving a grant from ACTION is a state or local government agency, certain restrictions contained in Chapter 15 of Title 5 of the United States Code are applicable to persons who are principally employed in activities associated with the project. The restrictions are not applicable to employees of educational or research institutions. An employee subject to these restrictions may not:

a. Use his or her official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office.

b. Directly or indirectly coerce, attempt to coerce, command, or advise a State or local officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, agency or person for political purposes; or

c. Be a candidate for elective office, except in a non-partisan election. "Non-partisan election" means an election at which none of the candidates is to be nominated or elected as representing a political party any of whose candidates for Presidential election received votes in the last preceding election at which Presidential electors were selected.

If a project staff member, whose salary is traceable in whole or in part to an ACTION grant, is also a State or local government employee, the staff member is covered by provisions of the Hatch Act, restricting in many instances public participation in partisan political activities. Questions about the coverage of the Hatch Act may be addressed to the Office of General Counsel, ACTION, Washington, DC 20525.

4. Non-discrimination

No person with responsibility for the operation of a project shall discriminate with respect to any activity or program because of race, creed, belief, color, national origin, sex, age, handicap, or political affiliation.

5. Religious Activities

Volunteers and project staff funded by ACTION shall not give religious instruction, conduct worship services, or engage in any form of proselytization as part of their duties.

6. Labor and Anti-Labor Activity

No grant funds shall be directly or indirectly utilized to finance labor or anti-labor organization or related activity.

7. Non-displacement of Employed Workers

A student volunteer may not perform any service or duty which would supplant the hiring of workers who would otherwise be employed to perform similar services or duties; or result in the displacement of employed workers or impair existing contracts for service.

8. Non-compensation for Services

No volunteer or other person, organization, or agency shall request or receive any compensation for services of student volunteers. No volunteer site or any member or cooperating organization shall be requested or required to contribute or to solicit contribution to establish any part of a local share. This does not prevent the acceptance of cash contributions made voluntarily and without condition to the grantee for legitimate charitable purposes.

9. Volunteer Status

Student volunteers are not employees of the sponsoring organization or the U.S. Government while volunteers.

10. Nepotism

Persons selected for project staff positions may not be related by blood or marriage to other project staff, sponsor staff or officers, or members of the sponsor Board of Directors unless there is concurrence by ACTION.

(42 U.S.C. 4974)

Following is an address list of ACTION Regional Offices, along with the addresses of ACTION State Offices under their jurisdiction:

Region I

ACTION Region Office, 10 Causeway Street, Room 473, Boston, MA 02222–1039
ACTION State Office, Abraham Ribicoff Fed. Bldg., 450 Main Street, Room 524, Hartford, CT 06103–3002
ACTION State Office, Federal Building, Room 305, 76 Pearl Street, Portland, ME 04101–4188
ACTION State Office, 10 Causeway Street, Room 467, Boston, MA 02222–1038

(New Hampshire/Vermont)

ACTION State Office, Federal Post Office & Courthouse, 55 Pleasant Street, Room 316, Concord, NH 03301–3939
ACTION State Office, John E. Fogarty Building, Room 200, 24 Weybosset Street, Providence, RI 02903–2882

Region II

ACTION Region Office, 6 World Trade Center, Room 758, New York, NY 10048–0206
ACTION State Office, 402 East State Street, Room 246, Trenton, NJ 08608–1507

(Metropolitan New York)

ACTION State Office, 6 World Trade Center, Room 758, New York, NY 10048–0206

(Upstate New York)

ACTION State Office, U.S. Courthouse & Federal Building, 445 Broadway, Room 103, Albany, NY 12207–2923

(Puerto Rico/Virgin Islands)

ACTION State Office, Frederico DeGetau Federal Office Building, Carlos Chardon Avenue, Hato Rey, PR 00918–2241

Region III

ACTION Region Office, U.S. Customs House, 2nd & Chestnut Street, Room 108, Philadelphia, PA 19106–2912
ACTION State Office, Federal Building, Room 372–D, 600 Federal Place, Louisville, KY 40202–2230

(Delaware/Maryland)

ACTION State Office, Federal Building, 31 Hopkins Plaza, Room 1125, Baltimore, MD 21201–2814
ACTION State Office, Federal Building, Room 500, 85 Marconi Boulevard, Columbus, OH 43215–2888
ACTION State Office, US Customs House, Room 108, 2nd & Chestnut Streets, Philadelphia, PA 19106–2998

(Virginia/Dist. of Columbia)

ACTION State Office, 400 North 8th Street, P.O. Box 10066, Richmond, VA 23240–1832
ACTION State Office, 603 Morris Street, 2nd Floor, Charleston, WV 25301–1409

Region IV

ACTION Region Office, 101 Marietta Street, NW., Suite 1003, Atlanta, GA 30323–2301
ACTION State Office, 2121 8th Avenue North, Room 722, Birmingham, AL 35203–2307
ACTION State Office, 930 Woodcock Road, Suite 221, Orlando, FL 32803–3750
ACTION State Office, 75 Piedmont Avenue, NE, Suite 412, Atlanta, GA 30303–2587
ACTION State Office, Federal Building, Room 1005–A, 100 West Capital Street, Jackson, MS 39269–1092
ACTION State Office, Federal Building, P.O. Century Station, 300 Fayetteville Street Mall, Room 131, Raleigh, NC 27601–1739
ACTION State Office, Federal Building, Room 872, 1835 Assembly Street, Columbia, SC 29201–2430
ACTION State Office, Federal Building/US Courthouse, 801 Broadway, Room 246, Nashville, TN 37203–3889

Region V

ACTION Region Office, 10 West Jackson Boulevard, 6th Floor, Chicago, IL 60604–3964
ACTION State Office, 10 West Jackson Boulevard, 6th Floor, Chicago, IL 60604–3964
ACTION State Office, 46 East Ohio Street, Room 457, Indianapolis, IN 46204–1922
ACTION State Office, Federal Building, Room 339, 210 Walnut, Des Moines, IA 50309–2195
ACTION State Office, Federal Building, Room 658, 231 West Lafayette Boulevard, Detroit, MI 48226–2799
ACTION State Office, Old Federal Building, Room 126, 212 Third Avenue South, Minneapolis, MN 55401–2596
ACTION State Office, 517 East Wisconsin Avenue, Room 601, Milwaukee, WI 53202–4507

Region VI

ACTION Region Office, 1100 Commerce, Room 6B11, Dallas, TX 75242–0696
ACTION State Office, Federal Building, Room 2506, 700 West Capitol Street, Little Rock, AR 72201–3291
ACTION State Office, Federal Building, Room 248, 444 SE. Quincy, Topeka, KS 66603–3501
ACTION State Office, 626 Main Street, Suite 102, Baton Rouge, LA 70801–1910
ACTION State Office, Federal Office Building, 911 Walnut, Room 1701, Kansas City, MO 64106–2009
ACTION State Office, Federal Building, Cathedral Place, Room 129, Santa Fe, NM 87501–2026
ACTION State Office, 200 NW 5th, Suite 912, Oklahoma City, OK 73102–6093
ACTION State Office, 611 East Sixth Street, Suite 107, Austin, TX 78701–3747

Region VIII (No Region VII)

ACTION Region Office, Executive Tower Building, 1405 Curtis Street, Denver, CO 80202–2349
ACTION State Office, Columbine Building, Room 301, 1845 Sherman Street, Denver, CO 80203–1167
ACTION State Office, Federal Building, Room 8036, 2120 Capitol Avenue, Cheyenne, WY 82001–3649
ACTION State Office, Federal Office Building, Drawer 10051, 301 South Park, Rm 192, Helena, MT 59626–0101
ACTION State Office, Federal Building, Room 293, 100 Centennial Mall North, Lincoln, NE 68508–3896

(North & South Dakota)

ACTION State Office, Federal Building, Room 213, 225 S. Pierre Street, Pierre, SD 57501–2452
ACTION State Office, U.S. Post Office & Courthouse, 350 South Main Street, Room 484, Salt Lake City, UT 84101–2198

Region IX

ACTION Region Office, 211 Main Street, Room 530, San Francisco, CA 94105–1914
ACTION State Office, 522 North Central, Room 205–A, Phoenix, AZ 85004–2190
ACTION State Office, 211 Main Street, Room 534, San Francisco, CA 94105–1974
ACTION State Office, Federal Building, Room 14218, 11000 Wilshire Blvd., Los Angeles, CA 90024–3671

(Hawaii/Guam/American Samoa)

ACTION State Office, Federal Building, P.O. Box 50024, Honolulu, HI 96850
ACTION State Office, 4600 Kietzke Lane, Suite E–141, Reno, NV 89502–1208

Region X

ACTION Region Office Federal Office Building, 909 First Avenue, Ste. 3039, Seattle, WA 98174–1103

ACTION State Office, The Alaska Center, Suite 340, 1020 Main Street, Boise, ID 83702–5745

(Alaska)

ACTION State Office, Suite 3039, Federal Office Bldg., 909 First Avenue, Seattle, WA 98174–1103

ACTION State Office, Federal Building, Room 647, 511 NW. Broadway, Portland, OR 97209–3416

ACTION State Office, Suite 3039, Federal Office Building, 909 First Avenue, Seattle, WA 98174–1103.

(42 U.S.C. 4974)

Dated in Washington, DC on September 9, 1987.

Donna M. Alvarado,

Director, ACTION.

[FR Doc. 87–21143 Filed 9–14–87; 8:45 am]

BILLING CODE 6050–28–M

COMMISSION ON CIVIL RIGHTS

Agenda and Public Meeting; Missouri Advisory Committee

Notice is hereby given, pursuant to the provision of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Missouri Advisory Committee to the Commission will convene at 9:30 a.m. and adjourn at 3:00 p.m., on September 22, 1987, at the Sheraton Inn, 3333 S. Glenstone, Springfield, Missouri. The purpose of the meeting is to hear presentations on the status of civil rights in the State of Missouri. In addition, program ideas and activities for fiscal year 1988 will be discussed.

Persons desiring additional information, or planning a presentation to the Committee, should contact Acting Committee Chairperson, Cora D. Thompson or Melvin L. Jenkins, Director of the Central Regional Division (816) 374–5253, (TDD 816/374–5009). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, September 3, 1987.

Susan J. Prado,

Acting Staff Director.

[FR Doc. 87–21279 Filed 9–14–87; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

List of New Members of the Departmental Performance Review Board

This notice announces the new members of the Departmental Performance Review Board (PRB) in the Department of Commerce. The purpose of the Departmental PRB is to review the performance of appointing authorities and their immediate deputies who are in the SES and SES members whose ratings are initially prepared by their respective appointing authorities.

These Departmental PRB members are appointed for a two year term ending November 30, 1989. The list of new members eligible to serve on the Departmental PRB is as follows:

Office of the Deputy Secretary

Shirley Hays, Special Assistant to the Deputy Secretary

Office of General Counsel

Robert Brumley, Deputy General Counsel
Robert Ellert, Chief Counsel for Economic Affairs

Office of the Assistant Secretary for Administration

Otto Wolff, Deputy Assistant Secretary
Joseph Brown, Deputy Director, Office of Personnel and Civil Rights

Minority Business Development Agency

Chester Smith, Assistant Director for Program Development
Thomas Francis, Assistant Director for Program Support

Economic Affairs

C. Louis Kincannon, Deputy Director, Bureau of the Census
Allan Young, Director, Bureau of Economic Analysis
Lucy Falcone, Senior Advisor to the Chief Economist

National Telecommunications and Information Administration

Dennis Connors, Director, Office of Policy Coordination and Management
Charles Schott, Deputy Assistant Secretary

Economic Development Administration

Craig Smith, Deputy Assistant Secretary for Management Support

International Trade Administration

Saul Padwo, Director, Office of Trade Information Services
Peter Hale, Director, Office of Western Europe
Vincent DeCain, Deputy Assistant Secretary for Export Administration
John Richards, Director, Office of Industrial Resource Administration
Roger Severance, Director, Office of the Pacific Basin

National Oceanic and Atmospheric Administration

William Evans, Assistant Administrator for Fisheries
Thomas Pyke, Assistant Administrator for Environmental Satellite and Information Services.

Patent and Trademark Office

William Lawson, Patent Documentation Administrator
Stephen Kunin, Group Leader

National Bureau of Standards

Lyle Schwartz, Director, Institute for Materials Science and Engineering
Guy Chamberlin, Director of Administration

Persons desiring any further information about the Departmental PRB or its membership may contact Mr. David E. Mathis, Executive Secretary to the Departmental PRB, Office for Personnel and Civil Rights, Herbert C. Hoover Building, Room 5102, Washington, DC 20230 (202) 377–3453.

Dated August 15, 1987.

David E. Mathis,

Executive Secretary, Departmental Performance Review Board, Department of Commerce.

[FR Doc. 87–21154 Filed 9–14–87; 8:45 am]

BILLING CODE 3510–BS–M

International Trade Administration

Short-Supply Review on Certain Slabs; Request for Comments

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice of request for comments.

SUMMARY: The Department of Commerce hereby announces its review of a request for a short-supply determination under Article 8 of the U.S.-EC Arrangement Concerning Trade in Certain Steel Products, the U.S.-Brazil Arrangement Concerning Trade in Certain Steel Products, and the U.S.-Mexico Understanding Concerning Trade in Certain Steel Products, with respect to certain carbon steel slabs used in the production of steel plate and sheet.

DATE: Comments must be submitted on or before September 22, 1987.

ADDRESS: Send all comments to

Nicholas C. Tolerico, Acting Director, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue, NW., Washington, DC 20230, (202) 377–0159.

SUPPLEMENTARY INFORMATION: Article 8 of the U.S.-EC Arrangement, the U.S.-Brazil Arrangement, and the U.S.-Mexico Understanding Concerning Trade in Certain Steel Products provides that if the U.S. determines that because of abnormal supply or demand factors, the U.S. steel industry will be unable to meet demand in the USA for a particular product (including substantial objective evidence such as allocation, extended delivery periods, or other relevant factors), an additional tonnage shall be allowed for such product or products.

We have received a short-supply request for certain carbon steel slabs used in the manufacture of hot-and cold-rolled sheet, and hot-rolled plate. The slabs for production of sheet are of low carbon steel, six to eight inches in thickness, 30 to 49 1/2 inches in width, and 200 to 218 inches in length. The slabs requested for production of plate are 3-1/2 to 8-1/2 inches in thickness, 32 to 52 inches in width, and 80 to 120 inches in length.

Any party interested in commenting on this request should send written comments as soon as possible, and no later than September 25, 1987. Comments should focus on the economic factors involved in granting or denying this request.

Commerce will maintain this request and all comments in a public file. Anyone submitting business proprietary information should clearly identify the business proprietary portion of the submission and also provide a non-proprietary submission which can be placed in the public file. The public file will be maintained in the Central Records Unit, Room B–099, Import Administration, U.S. Department of Commerce at the above address.

Dated: September 9, 1987.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 87–21207 Filed 9–14–87; 8:45 am]

BILLING CODE 3510–DS–M

National Oceanic and Atmospheric Administration

South Atlantic Fishery Management Council; Atlantic Billfish Public Hearings

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of public hearings and request for comments.

SUMMARY: The South Atlantic Fishery Management Council will hold a series of public hearings and provide a comment period to solicit public input into the proposed Billfish Fishery Management Plan. Various measures to conserve and manage the resource will be discussed.

DATES: See **"SUPPLEMENTARY INFORMATION"** for dates and locations of the hearings. All hearings will begin at 7:00 p.m. The public comment period on the proposed plan will close November 2, 1987.

ADDRESS: All written comments should be sent to Robert K. Mahood, Executive Director, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407–4699.

FOR FURTHER INFORMATION CONTACT: Robert K. Mahood, Executive Director, South Atlantic Fishery Management Council, 803–571–4366.

SUPPLEMENTARY INFORMATION: The Billfish Fishery Management Plan was prepared jointly by the South Atlantic, New England, Mid-Atlantic, Gulf and Caribbean Fishery Management Councils. It establishes a management regime for Atlantic billfishes throughout the Atlantic, Gulf and Caribbean exclusive economic zones (EEZs) of the United States. The species addressed by this plan are the sailfish, *Istiophorus platypterus;* the white marlin, *Tetrapturus albidus;* the blue marlin, *Makaria nigricans;* and the longbill spearfish, *Tetrapturus pfluegeri.*

The dates and locations of the public hearings are scheduled as follows:

September 28, 1987 (Joint hearing with the Gulf of Mexico FMC)—American Legion Hall, Junior College Road, Stock Island, FL

September 28, 1987—North Carolina Aquarium at Pine Knoll Shores, Highway 58, Pine Knoll Shores, NC

September 29, 1987—Broward County Governmental Center, 115 South Andrews Avenue, Room 422 (Commission Chambers), Ft. Lauderdale, FL

September 29, 1987—North Carolina Aquarium on Roanoke Island, Airport Road, Manteo, NC

September 30, 1987—Sandlewood High School, 2750 John Prom Boulevard, Jacksonville, FL

September 30, 1987—South Carolina Wildlife & Marine Resources Center, Ft. Johnson Road, Charleston, SC

October 1, 1987—Thunderbolt Town Hall, 2702 Mechanics Avenue (Highway 80), Thunderbolt, GA

Dated: September 10, 1987.

Richard H. Schaefer,

Acting Director, Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 87–21172 Filed 9–4–87; 8:45 am]

BILLING CODE 3510–22–M

New England Fishery Management Council; Atlantic Salmon Public Hearing

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of a public hearing and request for comments.

SUMMARY: The New England Fishery Management Council will hold a public hearing and provide a comment period to solicit public input into the development of a Fishery Management Plan for Atlantic Salmon.

DATES: The hearing will begin at 10:00 a.m. on September 24, 1987. Written comments will be received until September 30, 1987.

ADDRESSES: The hearing will be held at the Ramada Hotel, 225 McClellan Highway, East Boston, Massachusetts.

Written comments may be sent to the Chairman, New England, Fishery Management Council, Suntaug Office Park, 5 Broadway (Route 1), Saugus, MA 01906.

FOR FURTHER INFORMATION CONTACT: Douglas G. Marshall, Executive Director, New England Fishery Management Council, 617–231–0422.

SUPPLEMENTARY INFORMATION: The New England Fishery Management Council (Council) and the Assistant Administrator for Fisheries (NOAA) propose to adopt and implement a Fishery Management Plan (FMP) for Atlantic Salmon *(Salmo salar).* The FMP is needed to address a deficiency in the U.S. management program for its Atlantic salmon resource to facilitate accomplishment of the long-term goals of salmon management as embodied within the States' stock restoration programs in the Northeast. The Council proposes to establish a management program for Atlantic salmon in the EEZ to complement existing State management programs in inland and coastal waters and to complement

Federal management authority over salmon of domestic origin on the high seas (beyond 12 miles) conferred to the United States as a signatory nation to the North Atlantic Salmon Conservation Organization (NASCO).

Dated: September 10, 1987.

Richard H. Schaefer,

Acting Director, Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 87-21173 Filed 9-14-87; 8:45 am]

BILLING CODE 3510-22-W

Public Meeting; Mid-Atlantic Fishery Management Councils

AGENCY: National Marine Fisheries Services, NOAA, Commerce.

The Mid-Atlantic Fishery Management Council will convene a public meeting, September 22, 1987, at 10 a.m., at the Ramada Inn, 76 Industrial Highway, Essington, PA (telephone: 215-421-9600), to set quotas for squid, mackerel, butterfish, surf clams and ocean quahogs, as well as to discuss other fishery management and administrative matters. The public meeting may be lengthened or shortened depending upon progress of the agenda, and the Council may go into closed session (not open to the public) to discuss personnel and/or national security matters.

For further information, contact John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Federal Building, 300 South New Street, Room 2115, Dover, DE 19901; telephone (302) 674-2331.

Date: September 10, 1987.

Richard H. Schaefer,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 87-21217 Filed 9-14-87; 8:45 am]

BILLING CODE 3510-22-M

Amended Meeting Notice; North Pacific Fishery Management Council

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The agenda as published in the **Federal Register** (52 FR 32959, September 1, 1987) for the North Pacific Fishery Management Council's September 23-25, 1987, public meeting in Anchorage, AK, has been amended. In addition, the Council will review a draft statement of commitment to examine alternatives to traditional fisheries management techniques forwarded by the Council's Policy and Planning Committee. The draft statement includes a plan of action for developing effort controls in the sablefish longline fishery by 1989, and for groundfish in general by 1990, including in the interim a possible moratorium on new entry to the fisheries. Any final decision on such a moratorium would be scheduled for the Council's December 1987 or January 1988 public meeting.

All other information as published originally remains unchanged. For further information contact the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510; telephone: (907) 274-4563.

Date: September 10, 1987.

Richard H. Schaefer,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 87-21218 Filed 9-14-87; 8:45 am]

BILLING CODE 3510-22-M

Public Meetings; North Pacific Fishery Management Council

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The North Pacific Fishery Management Council's Halibut Management Team and its Halibut Regulatory Amendment Advisory Group will convene separate public meetings to review public proposals for allocative regulations in the halibut fisheries off Alaska. The Team will convene September 16, 1987, at 9 a.m. at the National Marine Fisheries Service, Northwest and Alaska Fisheries Center, 7600 Sand Point Way, NE., Room 2143, Building 4, Seattle, WA. The Advisory Group will convene September 17 at the same time and location as mentioned above for the Management Team.

For further information contact Mr. Denby Lloyd, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510; telephone: (907) 274-4563.

Date: September 10, 1987.

Richard H. Schaefer,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 87-21219 Filed 9-14-87; 8:45 am]

BILLING CODE 3510-22-M

Public Meeting; South Atlantic Fishery Management Council

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The South Atlantic Fishery Management Council will convene a joint public meeting, September 21-22, 1987, of its Habitat and Environmental Protection and Ad Hoc Plan Development Committees, at the Council's Headquarters (address below), to discuss the Council's responsibilities under new habitat and vessel safety guidelines resulting from Magnuson Fishery Conservation and Management Act amendments. A detailed agenda will be available to the public on or about September 15, 1987.

For further information contact Robert K. Mahood, Executive Director, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407; telephone: (803) 571-4366.

Date: September 10, 1987.

Richard H. Schaefer,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 87-21220 Filed 9-14-87; 8:45 am]

BILLING CODE 3510-22-M

Public Meeting; Western Pacific Fishery Management Council.

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Western Pacific Fishery Management Council's Precious Corals Planning Team will convene a public meeting, September 14, 1987, at 2 p.m., at 1164 Bishop Street, Room 602, Honolulu, HI. The public meeting will focus on amending the fishery management plan for the precious corals fishery of the Western Pacific Region. The amendment will include the establishment of new quotas for selective and non-selective harvesting methods in exploratory areas; establishing a size limit for selective harvesting of precious coral in exploratory areas; discussing whether or not to include dead coral in the harvest quotas, and the means of enforcing the size limit.

For further information contact Kitty Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Room 1405, Honolulu, HI 96813; telephone: (808) 523-1368.

Date: September 10, 1987.

Richard H. Schaefer,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 87-21221 Filed 9-14-87; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Closed Meetings; Department of Defense Wage Committee

Pursuant to the provisions of section 10 of Pub. L. 92–463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, October 6, 1987; Tuesday, October 13, 1987; Tuesday, October 20, 1987; and Tusday, October 27, 1987 at 10:00 a.m. in Room 1E801, The Pentagon, Washington, DC.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Force Management and Personnel) concerning all matters involved in the development and authorization of wage schedules for federal prevailing rate employees pursuant to Pub. L. 92–392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92–463, meetings may be closed to the public when they are "concerned with matters listed in 5 U.S.C. 552b." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b.(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b.(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b.(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b(c)(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D264, The Pentagon, Washington, DC 20301.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

September 10, 1987.

[FR Doc. 87–21192 Filed 9–14–87; 8:45 am]

BILLING CODE 3810–01–M

Ada Board; Meeting

SUMMARY: A meeting of the Task Force on Process for Ada 9X will be held Thursday, October 1, 1987 from 9:00 a.m.–5:00 p.m. at IDA, 5111 Leesburg Pike, Suite 300, Falls Church, Virginia 22041, to discuss the process for developing Ada 9X and to develop recommendations to be forwarded to the Ada Board.

FOR FURTHER INFORMATION CONTACT: Ms. Jackie Rota, IIT Research Institute, Ada Information Clearinghouse, 4550 Forbes Boulevard, Suite, Lanham, Maryland 20706, (703) 685–1477.

Linda M. Bynum,

Office of the Secretary of Defense, Alternate Federal Register Liaison Office, Department of Defense.

September 9, 1987.

[FR Doc. 87–21197 Filed 9–14–87; 8:45 am]

BILLING CODE 3810–01–M

Department of the Air Force

Public Information Collection Requirement Submitted to OMB for Review

SUMMARY: The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of submission; (2) Title of Information Collection and Form Number, if applicable; (3) abstract statement of the need for and the uses to be made of the information collected; (4) type of Respondent; (5) an estimate of the number of responses; (6) an estimate of the total number of hours needed to provide the information; (7) to whom comments regarding the information collection are to be forwarded; and (8) the point of contact from whom a copy of the information proposal may be obtained.

Revision

AFROTC Scholarship Nomination (AFROTC form 36)
(OMB No. 0701–0103)

The information provided on the form by the applicant is used by the Air Force Reserve Officer Training Corps (AFROTC) Scholarship Central Selection Board in evaluating the applicant's qualifications for a scholarship award. The form reflects information on academic aptitude and performance and includes an evaluation by the applicant's Professor of Aerospace Studies.

Individuals
Responses 2,000
Burden hours 1,200.

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503 and Mr. Daniel J. Vitiello, DoD Clearance Officer, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202–4302, telephone number (202) 746–0933.

SUPPLEMENTARY INFORMATION: A copy of the information collection proposal may be obtained from Mr. Charles T. Rowland, HQ AFROTC/RRUC, College Scholarship Branch, Maxwell AFB, AL 36112–6663, telephone number (205) 293–6588.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

September 10, 1987.

[FR Doc. 87–21196 Filed 9–14–87; 8:45 am]

BILLING CODE 3810–01–M

Department of the Army

Public Information Collection Requirement Submitted to OMB for Review

SUMMARY: The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of submission; (2) Title of Information; Collection and Form Number if applicable; (3) abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) an estimate of the number of responses; (6) an estimate of the total number of hours needed to provide the information; (7) to whom comments regarding the information collection are to be forwarded; and (8) the point of contact for whom a copy of the information proposal may be obtained.

Extension

USMA Applicant's Personal Background; USMA Forms 21–25, 21–26,

21–27, 5–520 and USMA FL 480 (OMB No. 0702–0060)

West Point candidates provide personal background information which allows the USMA Admissions Committee to make subjective judgements on non-academic experiences. Data is also used by USMA's Office of Institutional Research for Correlation with success in graduation and military careers.

Individuals or households.

Responses: 26,000

Burden Hours: 7,750.

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503 and Mr. Daniel J. Vitiello, DOD Clearance Officer, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202–4302, telephone number (202) 746–0933.

SUPPLEMENTARY INFORMATION: A copy of the information collection proposal may be obtained from Ms. Angela R. Petrarca, SAIS–ADR, Room 1C638, The Pentagon, Washington, DC 20310–0107, telephone (202) 694–0754.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

September 10, 1987.

[FR Doc. 87–21193 Filed 9–14–87; 8:45 am]

BILLING CODE 3810–01–M

Public Information Collection Requirement Submitted to OMB for Review

SUMMARY: The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of submission; (2) Title of Information; Collection and Form Number if applicable; (3) abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) an estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) to whom comments regarding the information collection are to be forwarded; and (8) the point of contact for whom a copy of the information proposal may be obtained.

Extension

USMA Applicant's Education; USMA Forms 21–16, 21–23, and USMA FL 480–1 (OMB No. 0702–0062)

The U.S. Military Academy Admissions Committee strives to objectively and fairly evaluate the applicant's past and future academic performance. The candidates provide school officials with forms that (a) request and supplement academic transcripts, (b) evaluate the candidate, and (c) provide final semester grades.

Individuals or households, State or local government schools:

Responses: 31,000

Burden Hours: 4,334.

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503 and Mr. Daniel J. Vitiello, DOD Clearance Officer, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202–4302, telephone number (202) 7456–0933.

SUPPLEMENTARY INFORMATION: A copy of the information collection proposal may be obtained from Ms. Angela R. Petrarca, SAIS–ADR, Room 1C638, The Pentagon, Washington, DC 20310–0107, telephone (202) 694–0754.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

September 10, 1987.

[FR Doc. 87–21194 Filed 9–14–87; 8:45 am]

BILLING CODE 3810–01–M

Public Information Collection Requirement Submitted to OMB for Review

SUMMARY: The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of submission; (2) Title of Information; Collection and Form Number if applicable; (3) abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) an estimate of the number of responses; (6) an estimate of the total number of hours needed to provide the information; (7) to whom comments regarding the information collection are to be forwarded; and (8) the point of contact for whom a copy of the information proposal may be obtained

Extension

Employer's Evaluation of Candidate; USMA Form 5–518 (OMB No. 0702–0061)

The USMA Form 5–518 is the form given to an employer by the candidate in order to receive credit for the work done outside the school/vocational environment. Without this form candidates would not receive recognition for this responsible activity as a component demonstrating leadership potential and maturity.

State or local governments, farms businesses or other for profit, Federal agencies or employees, non-profit institutions, small businesses or organizations.

Responses: 3,500

Burden Hours: 584.

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington DC 20503 and Mr. Daniel J. Vitiello, DOD Clearance Officer, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202–4302, telephone number (202) 746–0933.

SUPPLEMENTARY INFORMATION: A copy of the information collection proposal may be obtained from Ms. Angela R. Petrarca, SAIS–ADR, Room 1C638, The Pentagon, Washington, DC 20310–0107, telephone (202) 694–0754.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

September 10, 1987.

[FR Doc. 87–21195 Filed 9–14–87; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF ENERGY

Innovative Control Technology Advisory Panel; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Innovative Control Technology Advisory Panel.

Date and Time: September 30, 1987—9:00 a.m.–5:00 p.m.

Place: Washington Marriott Hotel, 1221 22d Street NW., Washington, DC 20037.

Contact: Sandy Guill, Department of Energy, Environment, Safety and Health (EH–22), 1000 Independence Avenue SW., Washington, DC 20585, Telephone: 202/586–4628.

Purpose of the Panel: To advise the Secretary of Energy on how to best achieve DOE's expanded innovative clean coal technologies program's objectives of reducing costs and improving efficiency by expanding emissions control options beyond those now available.

Tentative Agenda: Briefings and discussions of:

- DOE Clean Coal Program (CCTP–1).
- Selection Criteria Used in CCTP–1.
- Factors to be considered in selection criteria for Innovative Controls Program.
- Public Comment (10 minute rule).

Public Participation: The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Sandy Guill at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: The transcript of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room, IE–190, Forrestal Building, 1000 Independence Avenue SW., Washington, DC, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on September 9, 1987.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 87–21162 Filed 9–14–87; 8:45 am]

BILLING CODE 6450–01–M

Conduct of Employees; Notice of Waiver

Section 602(a) of the Department of Energy Organization Act (Pub. L. 95–91, hereinafter referred to as the "Act") prohibits a "supervisory employee" (defined in section 601(a) of the Act) of the Department from knowingly receiving compensation from, holding any official relation with, or having any pecuniary interest in any "energy concern" (defined in section 601(b) of the Act).

Section 602(c) of the Act authorizes the Secretary of Energy to waive the requirements of section 602(a) in cases of exceptional hardship or where the interest is a position, insurance, or other similarly vested interest.

Mr. Carl P. Gertz is under consideration for the position of Project Manager, Commercial Nuclear Waste Management Project Office, in the Nevada Operations Office of the Department of Energy. Mr. Gertz has an interest in the Boeing Employee Retirement Plan, as a result of his past employment by the Boeing Company.

It has been established to my satisfaction that requiring Mr. Gertz to divest his interest in The Boeing Company Employee Retirement Plan would impose an exceptional hardship on him, and that such interest is a vested pension interest within the meaning of section 602(c) of the Act. Accordingly, I have granted Mr. Gertz a waiver of the divestiture requirements of section 602(a) of the Act, for the duration of his employment with the Department, with respect to his interest in the Boeing Company Employee Retirement Plan.

In accordance with section 208, Title 18, United States Code, Mr. Gertz will be directed not to participate personally and substantially, as a Government employee, in any particular matter the outcome of which could have a direct and predictable effect upon The Boeing Company unless his supervisor and the Counselor agree that the financial interest in the particular matter is not so substantial as to be deemed likely to affect the integrity of the service which the Government may expect of him.

Dated: September 3, 1987.

John S. Herrington,

Secretary of Energy.

[FR Doc. 87–21214 Filed 9–14–87; 8:45 am]

BILLING CODE 6450–01–M

Assistant Secretary for International Affairs and Energy Emergencies

Proposed Subsequent Arrangement; Australia and European Atomic Energy Community

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation between the Government of the United States of America and the Government of Austria concerning Civil Uses of Atomic Energy, as amended, and the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above-mentioned agreements involves approval of the following retransfer:

RTD/EU(AT)–19, for the retransfer of irradiated fuel spheres and compacts containing 12.49 grams of uranium enriched to 9.6 percent in the isotope uranium–235, 0.0595 grams of uranium–233, 13.88 grams of thorium, and 0.12 grams of plutonium, from Austria to the Federal Republic of Germany for post-irradiation examination and subsequent disposal.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days the date of publication of this notice.

For the Department of Energy.

Date: September 8, 1987.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 87–21161 Filed 9–14–87; 8:45 am]

BILLING CODE 6450–01–M

Proposed Subsequent Arrangements; Sweden and Australia

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the Agreement for Cooperation between the Government of the United States of America and the Government of Sweden concerning Peaceful Uses of Nuclear Energy, and the Agreement for Cooperation between the Government of the United States of America and the Government of Australia concerning Peaceful Uses of Nuclear Energy.

The subsequent arrangements to be carried out under the above-mentioned agreements involve approval of the following sales:

Contract Number S–SW–65, for the sale of 296.8 grams of natural uranium and 21.297 grams of uranium enriched to 2.28 percent in the isotope uranium-235 for use as standard reference materials by ASEA–ATOM, Sweden. Contract Number S–AU–131, for the sale of 25.994 grams of natural uranium and 1.001 grams of uranium enriched to 49.38 percent in the isotope uranium-235 for use as standard reference materials by Amdel, Ltd., Adelaide, Australia.

In accordance with Section 131 of the Atomic Energy Energy Act of 1954, as amended, it has been determined that these subsequent arrangements will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner that fifteen days after the date of publication of this notice.

For the Department of Energy.

Date: September 8, 1987.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 87-21160 Filed 9-14-87; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Agency Collections Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of requests submitted for clearance to the Office of Management and Budget.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for approval under provisions of the Paperwork Reduction Act (144 U.S.C. Chapter 35).

The listing does not contain information collection requirements contained in new or revised regulations which are to be submitted under 3504(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) The sponsor of the collection (the DOE component or Federal Energy Regulatory Commission (FERC)); (2) collection number(s); (3) current OMB docket number (if applicable); (4) collection title; (5) type of request, e.g., new, revision, or extension; (6) frequency of collection; (7) response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (8) affected public; (9) an estimate of the number of respondents per report period; (10) an estimate of the number of responses annually; (11) annual respondent burden, i.e., an estimate of the total number of hours needed to respond to the collection; and (12) a brief abstract describing the proposed collection and the respondents.

DATES: Comments must be filed on or before October 15, 1987. Last notice published Monday, August 3, 1987.

ADDRESS: Address comments to the Department of Energy Desk Officer, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503. (Comments should also be addressed to the Office of Statistical Standards, at the address below.).

FOR FURTHER INFORMATION AND COPIES OF RELEVANT MATERIALS CONTACT: Carole Patton, Office of Statistical Standards (EI-70), Energy Information Administration, M.S. 1H-023, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-2222.

SUPPLEMENTARY INFORMATION: If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this Notice, you should advise the OMB DOE Desk Officer of your intention to do so as soon as possible.

The energy information collection submitted to OMB for review was:

1. Federal Energy Regulatory Commission.
2. FERC-585.
3. 1902-0138.
4. Reporting of Electric Energy Shortages and Contingency Plans Under PURPA 206.
5. Extension.
6. On occasion.
7. Mandatory.
8. Businesses or other for profit.
9. 30 respondents.
10. 30 responses.
11. 8,250 hours.
12. The reported information will be used to formulate options and recommendations for Commission consideration and action should shortages affecting reporting public utilities occur and to determine if statute provisions (FPA-202(g)) for equitable customer treatment are satisfied.

Statutory authority: Secs. 5(a), 5(b), 13(b), and 52, Pub. L. 93-275, Federal Energy Administration Act of 1974, (15 U.S.C. 764(a), 764(b), 772(b), and 790a).

Issued in Washington, DC, August 13, 1987.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 87-21215 Filed 9-14-87; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. RP87-109-000]

Proposed Change in FERC Gas Tariff; Algonquin Gas Transmission Co.

September 9, 1987.

Take notice that Algonquin Gas Transmission Company (Algonquin) on August 31, 1987, tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the tariff sheets listed on Appendix A and B.

Algonquin states that it is making this filing pursuant to § 154.38(d)(6) of the Commission's Regulations in order to: (1) Include in its FERC Gas Tariff the procedure for collecting from its customers the annual charges assessed by the Commission under the Annual Charge Adjustment ("ACA") Clause (18 CFR 382); (2) to include in its rates the authorized ACA Unit Surcharge; and (3) to include in its FERC Gas Tariff the procedure to pass through to its customers any ACA surcharge it is charged by its suppliers.

The proposed effective date of the tariff sheets listed on Appendix A and B is October 1, 1987.

Algonquin notes that a copy of this filing is being served upon each affected party and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such protests should be filed on or before September 16, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-21131 Filed 9-14-87; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 1953]

Existing Licensee's Intent To File an Application for New License; Consolidated Water Power Co.

September 9, 1987.

Take notice that on June 4, 1987, Consolidated Water Power Company, licensee for the Du Bay Project No. 1953 has stated its intent pursuant to section 15(b)(1) of the Federal Power Act (Act) to file an application for a new license. The license for the Du Bay Project No. 1953 will expire on June 30, 1991. The project is located on the Wisconsin River in Marathon, Portage and Wood Counties, Wisconsin, and occupies federal lands under the jurisdiction of the Bureau of Land Management.

The principal project works currently licensed for Project No. 1953 are: (1) A concrete gravity dam and adjacent earth dikes; (2) a reservoir with a surface area of approximately 6,830 acres; (3) a powerhouse containing four generating

units with a total installed capacity of 7,200 kW; (4) a substation; and (5) a 44-kV transmission line, approximately 21 miles in length.

Under section 15(c)(1) of the Act, as amended by the Electric Consumers Protection Act of 1986, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by June 30, 1989.

Pursuant to section 15(b)(2), the licensee is required to make available current maps, drawings, data and such other information as the Commission shall by rule require regarding the construction and operation of the licensed project. See Docket No. RM87–7–000 (Interim Rule issued March 30, 1987), for a detailed listing of required information. A copy of Docket No. RM87–7–000 can be obtained from the Commission's Public Reference Section, Room 1000, 825 North Capitol Street, NE., Washington, DC 20426. The above information is required to be available for public inspection and reproduction at a reasonable cost as described in the rule at the licensee's offices.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–21133 Filed 9–14–87; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2392]

Existing Licensee's Intent To File an Application for New License; Georgia-Pacific Corp.

September 9, 1987.

Take notice that on August 6, 1987, Georgia-Pacific Corporation, licensee for the Gilman Project No. 2392, has stated its intent pursuant to section 15(b)(1) of the Federal Power Act (Act) to file an application for a new license. The license for the Gilman Project No. 2392 will expire on December 31, 1990. The project is located on the Connecticut River in Essex County, Vermont and Coos County, New Hampshire, and has a total capacity of 4,850 kW.

The principal project works currently licensed for Project No. 2392 are: (1) The Gilman Dam, (a) a concrete gravity structure approximately 170 feet long and 29 feet high, and (b) a rock-filled timber crib dam approximately 108 feet long and 40 feet high, each with a crest elevation of 828.3 feet USGS; (2) 5-foot-high flashboards bringing the normal water surface elevation to 833.3 feet USGS; (3) a hydraulically operated crest gate 18 feet high and 27 feet wide; (4) a reservoir having an area of 130 acres, a storage capacity of 705 acre-feet, and a normal water surface elevation of 833.3 feet USGS; (5) a powerhouse containing four turbine-generator units, one rated at 2,250 kW, one rated at 1,000 kW, and two rated at 800 kW each for a total rated capacity of 4,850 kW; (6) a 200-foot-long transmission line; and (7) appurtenant facilities.

Under section 15(c)(1) of the Act, as amended by the Electric Consumers Protection Act of 1986, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by December 31, 1988.

Pursuant to section 15(b)(2), the licensee is required to make available current maps, drawings, data and such other information as the Commission shall by rule require regarding the construction and operation of the licensed project. See Docket No. RM87–7–000 (Interim Rule issued March 30, 1987), for a detailed listing of required information. A copy of Docket No. RM87–7–000 can be obtained from the Commission's Public Reference Section, Room 1000, 825 North Capitol Street, NE., Washington, DC 20426. The above information is required to be available for public inspection and reproduction at a reasonable cost as described in the rule at the licensee's offices.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–21134 Filed 9–14–87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87–101–000]

Tariff Filing Overthrust Pipeline Co.

September 9, 1987.

Take notice that on August 31, 1987, Overthrust Pipeline Company (Overthrust), pursuant to 18 CFR 154.38(d)(6) and Part 382 of the Commission's regulations, tendered for filing and acceptance revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1, as follows:

Third Revised Sheet No. 2
Fifth Revised Sheet No. 6
First Revised Sheet No. 9
Original Sheet No. 54–A

Additionally, pursuant to authority granted by order issued June 27, 1986, in Docket No. RP86–88–000 and by order issued December 19, 1986, in Docket Nos. RP86–88–002 and RP86–88–003, Overthrust tendered for filing and acceptance First Revised Sheet No. 12–A to its FERC Gas Tariff, Original Volume No. 1.

Overthrust states that the purpose of this filing is to (1) terminate Rate Schedule T–1, (2) add language to its FERC Gas Tariff to provide for an Annual Charge Adjustment (ACA) clause, and (3) implement the annual charge unit rate of $0.0021/Mcf in each of its rate schedules applicable to transportation. Overthrust requests an effective date of October 1, 1987, for all tendered tariff sheets.

Copies of the filing were served upon Overthrust's jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 16, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–21127 Filed 9–14–87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87–95–000]

Change in Tariff; Panhandle Eastern Pipe Line Co.

September 9, 1987.

Take notice that on August 28, 1987, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing revised sheets to its FERC Gas Tariff, Original Volume No. 1, as reflected in Appendix No. 1, and to its FERC Gas Tariff, Original Volume No. 2, as reflected in Appendix No. 2, to become effective October 1, 1987.

On May 29, 1987 the Commission issued Order No. 472 in Docket No. RM87–3–000. Order No. 472 provides that a natural gas company, such as Panhandle, may file an Annual Charge Adjustment (ACA) clause to its FERC Gas Tariff. Panhandle states that pursuant to Order 472 in Docket No. RM87–3–000 and § 154.38(d)(6)(i) of the Commission's Regulations, Panhandle proposes an Annual Charge Adjustment Provision (Section 20) to the General

Terms and Conditions of Panhandle's FERC Gas Tariff, Original Volume No. 1.

Panhandle has also included as Appendix No. 3 proposed alternate tariff sheets which reflect Rate Schedule PT settlement rates which are pending before the Commission in Docket No. RP86-116, *et al.* In the event Commission approval of the RP86-116, *et al.*, settlement rates is granted prior to October 1, 1987, Panhandle respectfully requests the Commission accept the proposed alternate tariff sheets included in Appendix No. 3. Panhandle requests that the Commission grant such waivers as may be necessary for acceptance of the tariff sheets submitted herewith, to become effective October 1, 1987, as previously described.

Any person desiring to be heard or to protest said filing should file a protest or motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All motions or protests should be filed on or before September 16, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-21128 Filed 9-14-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ST85-1730-001 and ST85-1874-001]

Extension Reports; Panhandle Gas Co.

September 9, 1987.

The companies listed below have filed extension reports pursuant to section 311 of the Natural Gas Policy Act of 1978 (NGPA) and Part 284 of the Commission's regulations giving notice of their intention to continue sales of natural gas for an additional term of up to 2 years.[1]

The table below lists the name and addresses of each company selling pursuant to Part 284; the party receiving the gas; the date that the extension report was filed; and the effective date of the extension. A "D" indicates a sale by an intrastate pipeline extended under § 284.146.

Any person desiring to be heard or to make any protest with reference to said extension reports should on or before September 23, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants party to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

EXTENSION LIST

[August 15-31, 1987]

Docket No.	Transporter/seller	Recipient	Date filed	Part 284 subpart	Effective date	Expiration date [2]
ST85-1730-001 [1]	Panhandle Gas Co., P.O. Box 1188, Houston, TX 77001.	Pacific Gas and Electric Co.	08-17-87	D	08-15-87	11-15-87
ST85-1874-001 [1]	Panhandle Gas Co., P.O. Box 1188, Houston, TX 77001.	Piedmont Natural Gas Co.	08-17-87	D	08-31-87	11-15-87

[1] This extension report was filed after the date specified by the Commission's Regulation, and shall be the subject of a further Commission order.

[2] The pipeline has sought Commission approval of the extension of this transaction. The 90-day Commission review period expires on the date indicated.

[FR Doc. 87-21136 Filed 9-14-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI87-873-000]

Application; Sunshine Energy Co.

September 9, 1987.

Take notice that on September 1, 1987, Sunshine Energy Company ("Sunshine"), filed in this proceeding an application pursuant to section 7 of the Natural Gas Act ("NGA") and Part 157 of the Commission's regulations, requesting blanket certificate authorization for (1) self-implementing sales for resale of certain natural gas in interstate commerce, without market restrictions, (2) pregranted abandonment of all sales for resale in interstate commerce, and (3) waiver of Part 154 of the Commission's Regulations concerning maintenance of rate schedules.

Sunshine states that the purpose of its application is to permit Sunshine to make sales for resale in interstate commerce of gas which is subject to all NGPA pricing categories. Sunshine also seeks parallel authority on behalf of producers who may sell gas to Sunshine or on whose behalf Sunshine may act as agent. Sunshine also seeks pre-granted abandonment authority to discontinue all sales made pursuant to the authority requested upon the earlier of the contract expiration date or the expiration of Sunshine's blanket authority.

Any person desiring to be heard or to make any protest with reference to Sunshine's application should on or before September 23, 1987, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and

[1] Notice of these extension reports does not constitute a determination that a continuation of service will be approved.

Procedure. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any conference or hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-21125 Filed 9-14-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI87-847-000]

Application; Texas Eastern Gas Services Co.

September 9, 1987.

Take notice that on August 24, 1987, Texas Eastern Gas Services Company ("TEGAS"), One Houston Center, 1221 McKinney, Houston, Texas 77010, filed in this proceeding an application pursuant to section 7 of the Natural Gas Act ("NGA") and Part 157 of the Commission's regulations, requesting blanket certificate authorization for (1) self-implementing sales for resale of certain natural gas in interstate commerce, without market restrictions, (2) pre-granted abandonment of all sales for resale in interstate commerce, and (3) waiver of Part 154 of the Commission's Regulations concerning maintenance of rate schedules.

TEGAS states that the purpose of its application is to permit TEGAS to make sales for resale in interstate commerce of gas which is available for sale, but is still subject to the certificate and abandonment provisions of the NGA. TEGAS further requests that the Commission declare in its order issuing the authorizations that the Commission's NGA jurisdiction over the activities and operations gf TEGAS is limited to the transactions for which authorization is sought in the Application.

Any person desiring to be heard or to make any protest with reference to said filing should on or before September 23, 1987, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any conference or hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-21126 Filed 9-14-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-106-000]

Change in Tariff; Trunkline Gas Co.

September 9, 1987.

Take notice that on August 31, 1987; Trunkline Gas Company (Trunkline) tendered for filing revised sheets to its FERC Gas Tariff, Original Volume No. 1, as reflected in Appendix No. 1, and to its FERC Gas Tariff, Original Volume No. 2, as reflected in Appendix No. 2, to become effective October 1, 1987.

On May 29, 1987 the Commission issued Order No. 472 in Docket No. RM87-3-000. Order No. 472 provides that a natural gas company, such as Trunkline Gas Company (Trunkline), may file an Annual Charge Adjustment (ACA) clause to its FERC Gas Tariff. Trunkline states that pursuant to Order No. 472 in Docket No. RM87-3-000 and § 154.38(d)(6)(i) of the Commission's Regulations, Trunkline proposes an Annual Charge Adjustment Provision (Section 20) to the General Terms and Conditions of Trunkline's FERC Gas Tariff, Original Volume No. 1. This adjustment will permit the collection of 2.1 mills to recover from its customers annual charges assessed it by the Commission under Part 382 of the Commission's Regulations. Trunkline requests that the Commission grant such waivers as may be necessary for acceptance of the tariff sheets submitted herewith, to become effective October 1, 1987, as previously described.

Any person desiring to be heard or to protest said filing should file a protest or motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All motions or protests should be filed on or before September 16, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-21135 Filed 9-14-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP-115-000]

Proposed Changes in FERC Gas Tariffs Williston Basin Interstate Pipeline Co.

September 9, 1987.

Take notice that on August 31, 1987, Williston Basic Interstate Pipeline Company (Williston Basin), tendered for filing proposed changes to its FERC Gas Tariffs, First Revised Volume No. 1, Original Volume No. 1-A and Original Volume No. 2 applicable to its jurisdictional gas sales and transportation customers. Williston Basin states that the proposed changes would increase revenues from jurisdictional sales and services by $10,838,603 based on the 12-month period ending April 30, 1987, as adjusted. The proposed effective date is October 1, 1987.

The filing includes a proposal to eliminate Williston Basin's interruptible sales Rate Schedule I-1 and to allow such sales to be made within the revised contract quantities nominated by its sales customers and included in the filing. Williston Basin states that it will be submitting an application for abandonment of Rate Schedule I-1 pursuant to section 7(b) of the Natural Gas Act Shortly. The filing also incorporates a newly revised version of Rate Schedule E-1 in First Revised Volume No. 1 of Williston Basin's FERC Gas Tariff as compared to that submitted and rejected in Docket No. RP86-10-000 to allow the provision of emergency sales service pursuant to existing certified authority under the Commission's Regulations at 18. CFR 284.261 *et seq*. Additionally, the filing incorporates revisions of the authorized and unauthorized overrun provisions in the Company's Rate Schedule G-1 and SGS-1 in its FERC Gas Tariff, First Revised Volume No. 1 and recognizes the change to "best efforts" service of Rate Schedules X-5 and X-6 contained in its FERC Gas Tariff, Original Volume No. 2, by deleting the billing demand quantities shown for these latter two services. The Company notes that abandonment of the sales provided under Rate Schedules X-5 and X-6 is pending in Docket No. RP86-10-000, CP86-430-000 and CP86-431-000.

Conforming tariffs changes are proposed throughout to effectuate these revisions.

Copies of this filing were served on the Company's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington DC 20426, in accordance with Rule 211 or 114 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before September 16, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-21132 Filed 9-14-87; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 10063-002]

Surrender of Preliminary Permit; Cumberland Mills Hydroelectric Limited Partnership

September 9, 1987.

Take notice that the Cumberland Mills Hydroelectric Limited Partnership, permittee for the Cumberland Mills Project No. 10063 located on the Presumpscot River in Cumberland County, Maine has requested that its preliminary permit be terminated. The preliminary permit was issued on December 10, 1986, and would have expired on November 30, 1989. The permittee states that analysis of the Cumberland Mills Project did not indicate feasibility for development.

The permittee filed the request on August 26, 1987, and the preliminary permit for Project No. 10063 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-21129 Filed 9-14-87; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 9924-001]

Surrender of Preliminary Permit; Trenton Falls Hydroelectric Co.

September 9, 1987.

Take notice that the Trenton Falls Hydroelectric Company, permittee for the Nine Mile Feeder Canal Project No. 9924, has requested that the preliminary permit be terminated. The preliminary permit for Project No. 9924 was issued on August 7, 1986, and would have expired on July 31, 1989. The project would have been located on the Nine Mile Feeder Canal, in Oneida County, New York.

The permittee filed the request on August 21, 1987, and the preliminary permit for Project No. 9924 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday, or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-21130 Filed 9-14-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-4579-048 et al.]

Natural Gas Companies; Applications for Certificates, Abandonments of Service and Petitions to Amend Certifications;[1] Cities Service Oil & Gas Corp. et al.

September 9, 1987.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before September 23, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR § 385.211,385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G-4579-048, D, Aug. 31, 1987.	Cities Service Oil & Gas Corp., P.O. Box 300, Tulsa, OK 74102.	Colorado Interstate Gas Co., Lease No. 6-1539132 (NE SW Section 35-33S-42W), Morton County, KS.	(1)	
CI60-169-000, D, Aug. 31, 1987.	....do	Colorado Interstate Gas Co., Lease No. 6-1548616 (S/2 NE, SE Less approximately 2 acres Section 19-34S-42W), Morton County, KS.	(2)	
CI61-1123-000, D, Aug. 31, 1987.	....do	Colorado Interstate Gas Co., Lease No. 6-1539015 (NE Section 25-33S-42W), Morton County, KS.	(3)	

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G-3056-001, F, Aug. 26, 1987.	Cities Service Oil & Gas Corp, (Succ. to ARCO Oil & Gas Company, Division of Atlantic Richfield Co., (Opr.), *et al.*).	Trunkline Gas Co., Columbus Field Unit, Colorado County, TX.	[22]	
G-4319-001, F, Aug. 26, 1987.	....do	....do	[4]	
CI87-852-000, (CI67-824), B, Aug. 24, 1987.	....do	Consolidated Gas Transmission Corp., Perry Township, Jefferson County, PA.	[6]	
CI87-845-000, (CI86-350-000), B, Aug. 21, 1987.	....do	Transco Gas Supply Co., High Island Block A-273, OCS-G-2398, Offshore Texas.	[7]	
CI87-864-000, (CI67-865), B, Aug. 31, 1987.	....do	El Paso Natural Gas Co., Reeves TXL Unit, Reeves County, TX.	[8]	
CI87-863-000, (CI62-1240), B, Aug. 31, 1987.	....do	Northern Natural Gas Co., Division of Enron Corp., N/2 NE/4 Section 17-33S-21W, Clark County, KS.	[9]	
CI87-856-000, B, Aug. 28, 1987.	William P. Carr	El Paso Natural Gas Co., San Juan Basin, San Juan County, NM.	[15]	
CI87-857-000, B, Aug. 28, 1987.	....do	....do	[15]	
CI87-858-000, B, Aug. 28, 1987.	....do	....do	[15]	
CI87-859-000, B, Aug 28, 1987.	....do	....do	[15]	
CI87-853-000, (CI75-128), B, Aug. 25, 1987.	Conoco Inc., P.O. Box 2197, Houston, TX 77252.	Trunkline Gas Co., South Marsh Island Block 261, Offshore Louisiana.	[16]	
G-11479-000, D, Aug. 26, 1987.	Amoco Production Co., P.O. Box 3092, Houston, TX 77253.	El Paso Natural Gas Co., Langlie Mattix, *et al.*, Lea County, NM.	[17]	
CI87-862-000, (CI84-147), B, Aug. 13, 1987.	Chevron U.S.A. Inc., P.O. Box 7309, San Francisco, CA 94120-7309.	Natural Gas Pipeline Company of America, West Cameron 81 Field, Offshore Louisiana.	[19]	
CI87-860-000, (CI67-658), B, Aug. 28, 1987.	Bob Hurt, P.O. Box 2748, Pikeville, KY 41501.	Columbia Gas Transmission Corp., Pike County, KY.	[20]	
CI87-832-000, (G-10411), B, Aug. 17, 1987.	Brookover Enterprises, P.O. Box 1034, Garden City, KS 67846.	Panhandle Eastern Pipeline Co., Novinger Marmaton Field, Chester Reservoir, Section 22-33S-30W, Mease County, KS.	[23]	
CI87-849-000, A, Aug. 26, 1987.	Phillips Petroleum Co., 990-G Plaza Office Bldg., Bartlesville, OK 74004.	Transwestern Pipeline Co., Feldman Field, Hemphill County, TX.	[25]	
CI87-850-000, B, Aug. 21, 1987.	Silver Creek Management Corp., 1900 Amidon—Suite 221, Wichita, KS 67202.	Panhandle Eastern Pipeline Co., Hardtner Field, Barber County, KS.	[26]	
CI87-851-000, B, Aug. 21, 1987.	....do	....do	[26]	
CI87-842-000, (CI79-471), B, Aug. 20, 1987.	Mesa Operating Ltd. Partnership, P.O. Box 2009, Amarillo, TX 79189-2009.	ANR Pipeline Co., Block 273, High Island, Offshore Texas.	[27]	
CI87-865-000, (CI64-1198), B, Aug. 31, 1987.	Cibola Oil & Gas Corp.	Natural Gas Pipeline Company of America, Penn Griffith Field, Rusk County, TX.	[28]	
CI87-866-000, B, Aug. 31, 1987.	Canadian Occidental of California, P.O. Box 300, Tulsa, OK 74102.	Transco Gas Supply Co., High Island, Block A-273, OCS-G-2398, Offshore Texas.	[29]	
CI87-861-000, (G-6613), B, Aug. 31, 1987.	Union Pacific Resources Co., 1400 Smith Street—Suite 1500, Houston, TX 77002.	Williams Natural Gas Co., West Edmond Field, Logan County, OK.	[30]	
CI68-90-000, D, Aug. 31, 1987.	Santo Resources, Inc., P.O. Box 301, Waynoka, OK 73860.	Panhandle Eastern Pipeline Co., Fair #1 Unit, Northeast Waynoka Field, Woods County, OK.	[31]	
G-3244-000 & CI72-686-001, F, Aug. 25, 1987.	Cabot Corp., 550 Westlake Blvd., Houston, TX 77079.	El Paso Natural Gas Co., Winkler Field, Winkler County, TX.	[32]	

[1] Lease No. 6-1539132 reverted to the U.S. Government on 7-5-85, after which Cities Service no longer had a working interest in such lease.

[2] Lease No. 6-1548616 reverted to the U.S. Government on 1-12-87, after which Cities Service no longer had a working interest in such lease.

[3] Lease No. 6-1539015 reverted to the U.S. Government on 3-27-87, after which Cities Service no longer had a working interest in such lease.

[4] Cities Service acquired effective 6-1-86, .0641823% working interest in Tracts 1, 5 and 19 of Atlantic Richfield Company; effective 7-1-74, .0000177% working interest in Tract 19 of John E. and Polly R. Daniel; effective 6-1-86, .0001002% working interest in Tract 19 of Homestead Farms Co., Ltd., L.P.; and effective 1-1-85, .0000177% working interest in Tract 19 of Carl G. Marquardt Estate, all in Columbus Field Unit, Colorado County, Texas.

[5] Not used.

[6] By Assignment of Oil and Gas Leases and Bill of Sale executed 5-4-87, effective 1-1-87, Cities Service sold all of its wells and assigned its interest in the oil and gas leases ⅓ to J & J Enterprises, Inc., and ⅔ to Consolidated Gas Transmission Corporation.

[7] Production from High Island Block A-273 OCS-G-2398 has ceased and all wells approved for P&A and lease terminated 12-16-86.

[8] By Agreement of Sale and Purchase effective 1-1-87, Cities sold all of its interest in the Reeves TXL Units #1-9 leases located in Sections 44 and 46, Block 50, Township 7, T&P Railroad Survey, Reeves County, Texas, from depths below 5,400 feet, proportionally 80% to Helmerich & Payne, Inc., and 20% to CNG Producing Company.

[9] By Assignment of Oil and Gas Leases and Bill of Sale effective 4-1-87, Cities assigned its interest in the McMinimy Unit to G.L. Stafford, Jr.

[10] Not used.
[11] Not used.
[12] Not used.
[13] Not used.
[14] Not used.
[15] Termination of contract. In addition Applicant requests pregranted abandonment for three years for spot market sales made under Applicant's small producer certificate.
[16] The contract passed its primary term and Conoco has no remaining production subject to Rate Schedule No. 412.
[17] Effective 2-1-87, Amoco sold all of its interest in the Gregory Federal "A" Lease to Union Texas Petroluem Corporation.
[18] Not used.
[19] Chevron no longer owns an interest in the acreage originally covered by Rate Schedule No. 194 and gas reserves depleted and sales contract terminated.
[20] The rate paid for the purchase of gas under the term of the contract is $.35/Mcf. The gas cannot be produced at this price. It is requested that contact number 1169 be terminated and that Columbia Gas Transmission Corporation be ordered to transport any remaining volumes from the dedicated lease to Columbia Gas of Kentucky.
[21] Not used.
[22] Cities Service acquired effective 6-1-86, .0458635% working interest in Tract 6 of Atlantic Richfield Company in Columbus Field Unit, Colorado County, Texas.
[23] Uneconomical to operate.
[24] Not used.
[25] Applicant is filing under Gas Purchase Contract dated 6-1-80 as amended by 1-1-87 purchase agreement.
[26] Uneconomical and well is plugged and lease abandoned.
[27] Production ceased and leases expired.
[28] Depleted reserves.
[29] Production from High Island Block A-273, OCS-G-2398 has ceased and all wells approved for P&A and lease terminated 12-16-86.
[30] Assignment of contract to Midstates Pipeline Company.
[31] Unprofitable, well was plugged and abandoned. Panhandle Eastern Pipeline Company requested authority to remove wellhead measurement facilities.
[32] By an Assignment Agreement dated and effective 5-1-87, Phillips 66 Natural Gas Company assigned to Cabot its interests in certain gas sales agreements with El Paso Natural Gas Company.
Filing Code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 87-21138 Filed 9-14-87; 8:45 am
BILLING CODE 6717-01-M

[Docket No. C187-854-000]

Application for Certificate of Public Convenience and Necessity and for Pre-Granted Abandonment; ARCO Oil and Gas Co., Division of Atlantic Richfield Co. ("ARCO")

September 9, 1987.

Take notice that on August 27, 1987, ARCO Oiland Gas Company, a Division of Atlantic Richfield Company (ARCO) filed an application requesting the Federal Energy Regulatory Commission (Commission) to issue an Order permitting and approving a Blanket Certificate of Public Convenience and Necessity for Sales for Resale in Interstate Commerce with Pre-granted Abandonment Authority upon the termination or expiration of the term of such sales. The requested authorizations would allow ARCO to purchase and resell, with pre-granted abandonment, natural gas subject to the jurisdiction of the Commission under the Natural Gas Act. ARCO wishes to sell NGA gas produced by other producers which has been released by the original purchaser or never didicated to a contract. The gas sold pursuant to the requested authorizations would be gas for which the entity selling to ARCO has received appropriate authority from the Commission.

ARCO also requested that the Commission, (1) grant the request for a term of three years; (2) waive requirements under sections 154 and 271 of the Commission's Regulations concerning the establishment and maintenance of rate schedules and blanket affidavits, and waiver of other regulations which may impede the granting of the requested authorizations; and (3) pregranted abandonment of the sales initiated pursuant to the authority requested therein upon contract expiration or termination of the contracts governing such sales.

ARCO states that it is not affiliated with any interstate pipeline, and does not anticipate setting up a separate marketing entity separate from its oil and gas producing operations.

ARCO states that the requested authority will give ARCO maximum flexibility in moving supplies of gas that might otherwise be shut in, or enhance its ability to serve a wider range of markets, thus promoting competition in the nationwide gas market.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 23, 1987, file with the Federal Energy Regulatory Commission, Washington DC 20436, a petition to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it but will not serve to make the protestants paries to the proceeding. Any person wishing to become a party in the proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-21137 Filed 9-14-87; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA88-40-000, RP87-102-000]

Change in Rates; Raton Gas Transmission Co.

September 9, 1987.

Take notice that Raton Gas Transmission Company (Raton) on August 28, 1987, tendered for filing, proposed changes in its FERC Gas Tariff, Volume No. 1, consisting of Eighth Revised Sheet No. 4. The change in rate is for jurisdictional sales and service.

Raton states that the instant filing is a minor rate change as required by 18 CFR 154.38 (d)(4) of the Regulations and reallocates cost-of-service between Demand and Commodity. In addition it provides for adjusted rates from supplier filed on August 14, 1987, and proposed to become effective October 1, 1987. Minor reduction in demand quantities are included therein.

Copies of Raton's filing are on file with the Commission and are available for public inspection. In addition, copies have been served on Raton's

Jurisdictional Customer and the New Mexico Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before September 16, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-21140 Filed 9-14-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-104-000]

Proposed Change in Tariff; South Georgia Natural Gas Co.

September 9, 1987.

Take notice that on August 31, 1987, South Georgia Natural Gas Company (South Georgia) tendered for filing certain revised sheets to its FERC Gas Tariff with proposed effective dates of May 1, 1987, July 1, 1987, and October 1, 1987. South Georgia states that the tariff sheets which are proposed to become effective on May 1, 1987, and July 1, 1987, extend the reduced settlement rates established pursuant to the Stipulation and Agreement in Docket Nos. RP87-13-000 and RP87-69-000 to its Rate Schedule X-6 through X-13. The October 1, 1987, tariff sheets reflect the establishment of an Annual Charge Adjustment Clause in accordance with the terms of the Commission's Order No. 472 to be applicable to all of South Georgia's sales and transportation rate schedules.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (§§ 385.214, 385.211). All such motions or protests should be filed on or before September 16, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-21139 Filed 9-14-87; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Implementation of Special Refund Procedures; Gulf Oil Corp.

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy has adopted the final procedures to be followed in refunding approximately $31 million in consent order funds to members of the public. This money is being held in escrow following the settlement of enforcement proceedings brought by the Economic Regulatory Administration of the Department of Energy involving Gulf Oil Corporation.

DATE AND ADDRESS: Applictions for Refund must be filed in duplicate, postmarked no later than June 30, 1988, and addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. Applications should conspicuously display a reference to the Case Number HEF-0590.

FOR FURTHER INFORMATION CONTACT: Virginia Lipton, Assistant Director, Office of Hearings and Appeals, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-2400.

SUPPLEMENTARY INFORMATION: In accordance with the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Decision and Order set out below. The Decision relates to a June 14, 1985 consent order between the DOE and Gulf Oil Corporation. That consent order settled certain disputes between the firm and the DOE concerning Gulf's possible violations of DOE regulations in its sales of crude oil and refined petroleum products. The consent order covers the period January 1, 1973 through January 27, 1981.

The Decision sets forth the procedures and standards that the DOE has formulated to distribute approximately $31 million, the available portion of the Gulf consent order fund allocated to Gulf refined petroleum products. Under the procedures adopted, purchasers of Gulf refined products may file claims for refunds from the consent order fund. The amount of the refund available to an applicant will generally be a pro rata or volumetric share of the Gulf consent order fund allocated to refined products. In order to receive a refund, a claimant must furnish the DOE with evidence that it was injured by the allegedly unlawful prices for covered products charged by Gulf. However, the Decision indicates that no separate, detailed showing of injury will be required of end-users of the relevant product, or of firms which file refund claims in amounts of $5,000 or less. The Decision further indicates that an applicant whose claim, if granted, would result in a refund greater than $5,000, but not greater than $50,000 may elect to receive a refund based on 40 percent of its allocable share. According to the Decision, such an applicant will not be required to provide a separate demonstration of injury. The Decision also determines that applicants whose claims, if granted, would result in a refund of more than $50,000 will be required to demonstrate that they were injured as a result of their purchases of Gulf product. The DOE further adopted a rebuttable presumption that Gulf consignees experienced an injury of 10 percent as a result of their sales of Gulf product. The DOE has prepared a suggested application format for claimants. A copy of the format may by otained by contacting the Office of Hearings and Appeals.

Applications for Refund must be postmarked no later than June 30, 1988, and should be sent to the address set forth at the beginning of this notice. Refund applicants must file two copies of their submission. All applications will be available for public inspection between the hours of 1:00 p.m. and 5:00 p.m., Monday through Friday, except federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in Room 1-234, 1000 Independence Avenue SW., Washington, DC 20585.

Date: September 8, 1987.

George B. Breznay,

Director, Office of Hearings and Appeals

Decision and Order

September 8, 1987.

Name of Firm: Gulf Oil Corp.

Date of Filing: July 25, 1985.

Case Number: HEF-0590

On July 25, 1985, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) filed a petition with the Office of Hearings and Appeals (OHA), requesting that the

OHA formulate and implement procedures for distributing funds obtained through the settlement of enforcement proceedings involving Gulf Oil Corporation (Gulf). *See* 10 CFR Part 205, Subpart V. The settlement agreement resolved DOE allegations that Gulf violated the mandatory petroleum regulations in its sales of crude oil and refined petroleum products. On October 15, 1986, the OHA issued a Proposed Decision and Order tentatively setting forth procedures for distributing the Gulf settlement fund. 51 FR 37479 (October 22, 1986). We further provided a 30-day period for submission of comments regarding our proposal. That period elapsed on November 21, 1986. The present Decision will address the comments received in connection with the procedures proposed for disbursement of the portion of the Gulf fund allocated to refined products and will set forth the final procedures for distribution of the Gulf refined product refund pool.[1]

Section I below summarizes the procedures tentatively adopted in the Proposed Order for distributing the Gulf refined product refund pool. Section II reviews and considers the comments we received regarding those procedures. Section III sets forth the final Gulf refund procedures applicable to parties claiming refunds based on alleged overcharges by Gulf in sales of refined products. A claimant should take special note of those requirements applicable to its particular circumstances. The specific application requirements are followed by a discussion of general requirements which apply to all refund applications involving refined petroleum products. We have also prepared a suggested form that refund applicants may use. This optional printed application form is available from OHA. Applications for refund from the Gulf refined product pool must be postmarked by June 30, 1988.

I. Summary of Proposed Gulf Refund Procedures

As we stated in the Proposed Decision, during the period covered by the settlement agreement, Gulf was engaged in the production, sale and refining of crude oil, as well as in the sale of refined petroleum products. DOE audits of Gulf's operations revealed possible regulatory violations in the firm's application of the federal petroleum price and allocation regulations. In order to settle claims and disputes between Gulf and the DOE, the two parties entered into a consent order which became final on June 14, 1985. Under the terms of the consent order, Gulf remitted $146,550,226.79 to the DOE in settlement of alleged violations occurring between January 1, 1973 and January 27, 1981 (the consent order period). These funds are being held in an escrow account established with the United States Treasury pending a determination of their proper distribution.

Because the consent order resolves alleged violations involving both sales of crude oil and refined products, we proposed to divide the fund into two pools. *See Office of Special Council*, 10 DOE ¶ 85,048 (1882) (*Amoco*). As we stated in the Proposed Order, according to information set forth in the **Federal Register** Notice announcing the proposed Gulf consent order, approximately 71 percent of the aggregate amount of the alleged violations settled by the consent order concern Gulf's production and sales of crude oil. 50 FR 9493, 9496 (March 6, 1985). We therefore proposed that this same percentage of the principal contained in the Gulf escrow account, or $104,050,661, be set aside as a pool of crude oil funds. We further proposed that the remaining 29 percent of the Gulf funds, or $42,499,566 be made available for distribution to claimants who demonstrate that they were injured by Gulf's alleged violations in sales of refined petroleum products. It is this latter sum that is the subject of the present Order.

The Proposed Order set forth the procedures under which purchasers of Gulf refined petroleum products could apply for refunds from the $42 million pool apportioned to refined products. In this regard, we proposed several presumptions. First, we presumed that the alleged overcharges were dispersed equally in all sales of refined product made by Gulf during the consent order period and that refunds should therefore be made on a pro rata or volumetric basis. Under the volumetric refund approach, a claimant is eligible to receive a refund equal to the number of gallons purchased times the per gallon refund amount. We also refer to this volumetric refund amount as the claimant's "allocable share."[2] In the Proposed Order, we set the per gallon refund amount at $.00064 per gallon. We derived this figure by dividing the consent order funds allocated to the Gulf refined products refund pool ($42,499,566) by the number of gallons of covered products other than crude oil which we believe that Gulf sold from August 1973 through the date of decontrol of the relevant product (66,387,563,569). However, we also recognize that some claimants may have been disproportionately overcharged, and indicated that any purchaser of Gulf refined product may file a refund application based on a claim that it suffered a disproportionate share of the alleged overcharges. *See Sid Richardson Carbon and Gasoline Co.*, 12 DOE ¶ 85,054 at 88,164 (1984).

We proposed to adopt a number of presumptions concerning injury. These presumptions excuse certain categories of refund applicants that purchased Gulf products from submitting proof that they were injured by Gulf's alleged overcharges, thus simplifying the refund process for these applicants.

We tentatively found that end-users and ultimate consumers whose businesses are unrelated to the petroleum industry would not be required to provide a separate demonstration that they were injured by Gulf's alleged refined product overcharges. Unlike regulated firms in the petroleum industry, end-users generally were not subject to price controls during the consent order period and were not required to keep records which justified selling price increases by reference to cost increases. For these reasons, we found an analysis of the impact of the alleged overcharges on the final prices of non-petroleum goods and services would be beyond the scope of a special refund proceeding. *See Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 at 88,209 (1984). We proposed, therefore, that end-users of Gulf products need only document that they were ultimate consumers of a specific amount of Gulf products to make a sufficient showing that they were injured by the alleged overcharges.

We also tentatively decided not to require firms whose prices for goods and services are regulated by a government agency or by the terms of a cooperative agreement to demonstrate injury as a result of alleged overcharges on refined products. Although such firms, e.g., public utilities and agricultural cooperatives, generally would have passed overcharges through to their customers, they generally would pass through any refunds as well. Therefore, we suggested that we would require such applicants to certify that they will pass any refund received through to their customers, to provide us with a full explanation of how they plan to accomplish this restitution, and to explain how they will notify the

[1] The final procedures for disbursing the Gulf crude oil refund pool will be considered under Case No. KFX-0037

[2] Claimants are also eligible to receive a pro rata share of interest accrued on the escrowed funds.

appropriate regulatory body or membership group of their receipt of the refund money. *See Office of Special Counsel*, 9 DOE ¶ 82,538 at 85,203 (1982). We noted, however, that a cooperative's sales of Gulf products to non-members would be treated in the same manner as sales by other resellers.

We also proposed specific procedures regarding refund applications filed by resellers, retailers and refiners. We proposed, first, to adopt a small-claims presumption, as we have in many previous cases. Under the small-claims presumption, a claimant seeking total refunds of $5,000 or less (excluding interest) is not required to submit any evidence of injury, beyond establishing the volume of Gulf products it purchased during the settlement period. *See Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 at 88,210 (1984). We believe that the cost to the applicant of gathering evidence of injury to support a small refund claim and the cost to the OHA of analyzing the additional evidence might be outweighed by the benefits that could be achieved by receiving the additional information.

In the Proposed Order we also stated that refiners, resellers and retailers seeking refunds greater than $5,000 would be expected to provide a more detailed injury showing. We tentatively adopted a further presumption for refiner, reseller or retailer applicants whose claims, if granted, would result in a total refund greater than $5,000, but no greater than $50,000, excluding interest (mid-range claimants). Based on our review of prior cases, we believed it a reasonable presumption that firms that sold Gulf refined products were likely to have experienced some injury as a result of the alleged overcharges. *E.g., Marathon Petroleum Co.*, 14 DOE ¶ 85,269 (1986); *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985) (*Mobil*); *Amoco*, 10 DOE at 88,222–23. Based on national average data and the conclusions regarding absorption of injury reached in those cases, we tentatively decided to adopt an injury presumption level of 40 percent in the Gulf refund proceeding. Accordingly, we proposed that any mid-range claimant be permitted to elect to receive a refund based on 40 percent of its total allocable or volumetric share. We tentatively determined that in order to receive a refund based on this 40 percent presumption, an applicant would be required to substantiate the volume of product it purchased from Gulf. We also stated that any mid-range claimant may elect not to receive a refund based on this presumption and may, instead, prove the extent of its injury using the criteria set forth for large refund claimants.

Finally, we proposed that a large refund applicant in this general category, one whose total claims, if granted, would result in a refund of more than $50,000 excluding interest, be required to provide a detailed showing of injury. We stated in the Proposed Order that such an applicant would be expected to show that it did not pass along the alleged overcharges to its own customers, by demonstrating that it maintained a bank of unrecovered product costs beginning with the first month of the period for which a refund was claimed through the date on which that product was decontrolled. In addition, we provided that a claimant specifically establish injury by showing that it did not pass through those increased costs. We suggested that such a showing might be made through a demonstration of lowered profit margins, decreased market share, or depressed sales volumes during the period of purchases from Gulf. *American Pacific Int'l.*, 14 DOE ¶ 85,158 (1986).

II. Comments Regarding Distribution of the Gulf Refined Product Pool

We received comments concerning our proposed procedures for disbursement of the Gulf refined products refund pool from the Gulf Jobbers Group and the Gulf Oil Wholesale Marketers Association (hereinafter referred to collectively as The Jobbers). The Jobbers assert that the small-claims limit of $5,000 should be increased with respect to claims made by resellers of Gulf refined products. The Jobbers allege that the $5,000 small claims threshold unfairly discriminates against them. They state that the volumetric refund share of a Gulf retailer of average size (one that purchased approximately 5.7 million gallons of product over the consent order period) would be $3,654. The Jobbers state that the average retailer would therefore be eligible to receive its full allocable share of the Gulf consent order fund without the necessity of proving injury. The Jobbers assert that a median-volume jobber (i.e., non-retail reseller) sold approximately 4.4 million gallons of product annually. The "full volumetric refund" of the median jobber applicant would therefore be approximately $22,000. The Jobbers state that jobber applicants receive unfavorable treatment when compared to retailer applicants, since jobbers, unlike retailers, cannot receive a "full volumetric refund" without a showing of injury. The Jobbers assert that the small-claims limit should be increased to allow jobber claimants that purchased "average" or "median" volumes of Gulf product to be subject to a full injury presumption, enabling them to receive a refund of approximately $22,000 with no injury showing.

The Jobbers have misperceived the function of the small claims threshold. The principal purpose of the $5,000 presumption is not to provide a "full volumetric refund" to an average size applicant. This is obvious because the volumetric amount, a function of the funds made available and the volume of products sold by the consent order firm, will vary considerably in each proceeding. Thus, the $5,000 threshold in one proceeding may permit a "full volumetric refund" to an average size firm, and in others may allow a "full volumetric refund" to a smaller than average firm or larger than average firm. The focus of the small claims injury presumption is on the size of the refund to be granted, and on whether the benefits to be obtained by the increased accuracy that is possible through analyzing injury data outweigh the burdens of supplying and reviewing the data. We believe that if a claimant requests a "full volumetric refund" that amounts to a sum greater than $5,000, the additional effort necessary for a detailed injury analysis is warranted. The $22,000 refund figure recommended by The Jobbers represents a significant sum that should not be disbursed without consideration of absorption of overcharges.

Moreover, as we pointed out above, a refund greater than $5,000 without an actual injury showing is possible through the 40 percent presumption method. This method does not provide a "full volumetric refund" because it presumes an injury level of 40 percent, and reduces the volumetric refund level accordingly. We emphasize, however, that the "average" jobber referred to above, would, under our 40 percent presumption methodology, be able to receive a refund of $8,800 (40 percent of $22,000) with no actual showing of absorption of overcharges. Thus, even without an injury showing, the average jobber could receive a refund considerably greater than that of the "average retailer" ($3,600) and greater than the $5,000 small claims threshold. In view of these considerations, we will not adopt this aspect of The Jobbers' suggestions.

The Jobbers also have raised the issue of the appropriate standards to be applied in considering Applications for Refund filed by consignees of Gulf product. A consignee agent distributes covered products to purchasers pursuant

to a contractual arrangement with a refiner, under which the refiner retains title to the covered products and specifies the prices to be paid by the purcahser. The refiner pays the consignee agent a commission on a per-gallon basis. 10 CFR 212.31.

The Jobbers point out that Gulf distributed 50 percent of its motor gasoline and middle distillates through more than 700 consignees. The Jobbers state that Gulf consignees were injured by Gulf in two ways. First, The Jobbers allege that due to Gulf's desire to maintain illegally high prices, consignees were forced to accept reduced commissions in order that the Gulf product it sold could remain competitively priced. Secondly, The Jobbers contend that consignees were forced to refuse new business because Gulf's prices at times were so uncompetitive that consignees would have been forced to accept a per gallon loss. The Jobbers therefore request that we adopt a presumption granting consignees a full volumetric refund on every gallon that a consignee did resell for Gulf.

In view of the large number of Gulf consignees who comprise the potential applicant pool in this proceeding, we agree with The Jobbers that it will be useful to set forth principles for considering the claims of this group of applicants. For the reasons set out below we will adopt a presumption of injury, as suggested by The Jobbers, although we will not use the precise presumption they recommend.

In previous decisions, we have adopted the rebuttable presumption that consignees were not economically injured as a result of their sales of a consent order firm's product, since they received a set per gallon commission fee that was added to the consent order firm's wholesale price. *See Amoco,* 10 DOE ¶ 85,048; *Gulf Oil Corp./C. F. Canter Oil Co.,* 13 DOE ¶ 85,388 (1986) (*Canter*).

In *Canter,* a Tennessee Gulf consignee overcame this presumption, adopted in a prior Gulf refund proceeding, by demonstrating that its State's overall gasoline consumption increased during the consent order period, while its own total gasoline sales volume decreased. *See Gulf Oil Corp.,* 12 DOE ¶ 85,048 (1984) (*Gulf I*). The refund in *Canter* was calculated by multiplying the following three factors: (i) The number of gallons of motor gasoline Gulf consigned to the claimant during the consent order period, (ii) the claimant's loss of potential sales (equal to the decrease in its gasoline sales volume plus the percentage increase in its State's gasoline consumption during the relevant period), and (iii) the Gulf volumetric refund amount. This approach has been adopted in several subsequent Gulf consignee cases. *E.g., Gulf Oil Corp./G.W. Mothershed Oil Co.,* 14 DOE ¶ 85.204 F(1986); *Gulf Oil Corp./Gilbert Enterprises, Inc.,* 14 DOE ¶ 85,356 (1986); *Gulf Oil Corp./Knight Oil Co.,* 15 DOE ¶ 85,017 (1986); *Gulf Oil Corp./Kenneth R. Greive Dist.,* 15 DOE ¶ 85,077 (1986); *Gulf Oil Corp./John D. Glover & Sons,* 15 DOE ¶ 85,181 (1986). The lost sales percentages in these cases generally ranged from .24 percent to 36 percent, with many successful claimants experiencing a combined drop in their own sales and statewide consumption increases of approximately 6 to 15 percent.

Based on these cases and on the experience we have gained regarding consignee applicants in *Gulf I,* we now believe that it is appropriate to adopt the following consignee presumption in the present proceeding. *See* 10 CFR 205.282(e). Specifically, we will adopt a rebuttable level of injury presumption of 10 percent for all consignees of any Gulf product during the consent order period. We believe that this percentage figure is reasonable in view of the combined percentage sales losses of consignees and statewide consumption increases demonstrated in our *Gulf I* consignee refund cases. Accordingly, a consignee may elect to receive a refund based on 10 percent of its total allocable or volumetric share. As with other presumptions adopted in our refund proceedings, any consignees applicant will be free to rebut this presumption and prove a greater injury in order to receive a larger refund.

After considering all comments received, we are now prepared to issue final procedures applicable to refund claims from the Gulf refined product pool. We have summarized these procedures below.

III Refund Procedures for the Gulf Refined Product Pool

This section sets forth the considerations applicable to refund claims from the pool apportioned to Gulf refined products.[3] The Gulf settlement fund available for refined products will be distributed to purchasers of Gulf refined product who satisfactorily demonstrate that they were injured by Gulf's alleged pricing violations. From our experience with Subpart V proceedings, we believe that potential claimants will fall into the following categories: (1) End-users, i.e., consumers who used the Gulf refined products; (2) regulated entities not subject to the former federal oil price controls that used Gulf products in their businesses, or cooperatives that sold Gulf products in their businesses; and (3) refiners, resellers or retailers who resold the Gulf products.

As we discussed in our Proposed Order, refunds will generally be made on a pro rata or volumetric basis. The volumetric refund amount in this special refund proceeding is $.00064 per gallon. However, we recognize that the impact on an individual purchaser might have been greater. Therefore, any purchaser may file a refund application based on a claim that it suffered a disproportionate share of the alleged overcharges. *See, e.g., Sid Richardson Carbon and Gasoline Co.,* 12 DOE ¶ 85,054 (1984).

(A) Specific Application Requirements for Each Category of Refined Product Refund Applicants

(1) Refund Applications by End-Users

As discussed above, we are adopting a finding that end-users or ultimate consumers whose businesses are unrelated to the petroleum industry were injured by the alleged refined product overcharges settled by the Gulf consent order. End-user claimants need only document their purchase volumes of Gulf products to make a sufficient showing that they were injured by the alleged overcharges.

(2) Refund Applications by Regulated Firms or Cooperatives

As we further stated above, agricultural cooperatives and regulated firms, such as public utilities, that are required to pass on to their customers the benefit of any refund received will be exempted from the requirement that they make a detailed showing of injury. *See Tenneco Oil Co./Farmland Industries, Inc.,* 9 DOE ¶ 82,597 (1982); *Office of Special Counsel,* 9 DOE ¶ 82,538 (1982). Instead, those firms and cooperative groups will be required to certify that they will pass any refund received through to their customers, to provide us with a full explanation of the manner in which they plan to accomplish this restitution to their customers and to notify the appropriate

[3] Pursuant to the Petroleum Overcharge Distribution and Restitution Act of 1986, (PODRA), the DOE must determine the amount of oil overcharge funds held in escrow that is not needed to make restitution to injured parties or to meet other commitments. These excess funds are made available to State governments for use in energy conservation programs. PODRA, section 3003(c). Pursuant to PODRA, $11,531,425.83 of the $42,499,566 refined product pool plus interest was disbursed to the States in 1986. 51 FR 43964 (December 5, 1986). We continue to believe that the remaining $30,968,140.17 will be sufficient to pay all claims seeking refunds from the Gulf refined product pool.

regulatory body of the receipt of refund money. A cooperative's sales of Gulf products to nonmembers will be treated in the same manner as sales by other resellers.

(3) Refund Applications by Resellers, Retailers and Refiners

(a) *Refiners, Resellers and Retailers Seeking Refunds of $5,000 or Less.* We are adopting the small-claims presumption set forth in the Proposed Order. Therefore, a claimant seeking a refund of $5,000 or less will not be required to submit any evidence of injury beyond establishing the volume of Gulf refined product it purchased during the consent order period.[4] *See Texas Oil & Gas Corp.*, 12 DOE at 88,210; *Marion Corp.*, 12 DOE ¶ 85,014 (1984). In addition to the general information required from all applicants, this type of claimant need only establish, through substantiating the volumes of purchases, that it is a small-claims applicant.

(b) *Refiners, Resellers and Retailers Seeking Refunds Greater Than $5,000.* We will also adopt a mid-range injury presumption of 40 percent. This presumption may be elected by a reseller/refiner/retailer applicant whose claim would result in a refund greater than $5,000 but not greater than $50,000 (excluding interest). These applicants will be required only to establish the volumes of refined product purchased from Gulf. Thus, they may elect to receive a refund based on 40 percent of their allocable share. Of course, a mid-range applicant may elect not to receive a refund based on this presumption and may, instead prove the extent of its injury using the criteria applicable to large claimants. Conversely, any applicant in this category may limit the amount of the refund it is requesting to no more than $50,000 and elect the 40 percent presumption method.

A claimant seeking a refund of more than $50,000 will be required to provide a detailed demonstration of its injury, as well as detailed purchase volume information. Such a claimant will be required to demonstrate that it maintained a bank of unrecovered product costs. In addition, the claimant must show, through market conditions or otherwise, that it not pass through those increased costs to its customers. Such a showing might be made though a demonstration of a competitive disadvantage, lowered profit margin, decreased market share, or depressed sales volume during the period of purchases from the consent order firm.

(4) Refund Applications by Spot Purchasers

If a claimant made only sporadic purchases of significant volumes of Gulf product, we consider that claimant to be a spot purchaser. We believe that in most circumstances such a claimant should not receive a refund, since it is unlikely to have experienced injury. Purchasers on the spot market tend to have considerable discretion in where and when to make purchases and would therefore not have made spot market purchases of Gulf product at increased prices unless they were able to pass through the full amount of the quoted selling price at the time of purchase to their own customers. *See Vickers*, 8 DOE at 85,396–97. Therefore, an applicant which made only spot purchases from Gulf will not receive a refund unless it presents evidence rebutting the spot purchaser presumption and establishes the extent to which it was injured as a result of its purchases of Gulf refined product during the consent order period. *See Saber Energy, Inc./Mobil Oil Corp.*, 14 DOE ¶ 85,170 (1986). Spot purchasers will *not* be able to use the injury presumption described above.

(5) Applicants Seeking Refunds Based on Allocation Claims

We also recognize that we may receive claims alleging Gulf allocation violations. Such claims are based on the consent order firm's alleged failure to furnish petroleum products that it was obliged to supply to the claimant under the DOE allocation regulations. *See* 10 CFR Part 211. We will evaluate refund applications based on allocation claims by referring to standards such as those set forth in *OKC Corp./Town & Country Markets, Inc.*, 12 DOE ¶ 85,094 (1984), and *Aztex Energy Co.*, 12 DOE ¶ 85,116 (1984).

(6) Refund Applications by Consignees

As we explained above, we have decided to adopt a presumption that Gulf consignees generally experienced an injury of 10 percent as a result of their sales of Gulf product. However, consignees may rebut this presumption and establish a greater level of injury.

(7) Minimum Refunds

As in previous cases, we will establish a minimum refund amount. We have found through our prior experience in refund cases that the cost of processing claims outweighs the benefits of restitution when refunds of less than $15 are sought. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 (1982).

(B) General Refund Application Requirements for Claims From the Gulf Refined Product Pool

There is a suggested application form available from OHA. Gasoline retailers applicants using the suggested form must file a separate form for *each gasoline station* for which a refund is requested. All other applicants using the suggested form should file one application showing total gallonage of all Gulf refined products purchased during the covered period. Such applicants should attach a supporting schedule with a separate volume calculation for *each product*. We will accept all applications that contain the information necessary to process a claim, whether or not the suggested form is used. For those claimants not using the suggested form, the information that must be included in an application is set forth below.

1. An application for refund must be in writing, signed by the applicant, and specify that it pertains to the Gulf Oil Corporation Special Refund Proceeding, Case No. HEF-0590.

2. Each applicant should furnish its name, street or post office address, and its telephone number. If the applicant is a business firm, it should furnish all other names under which it operated during the period for which the claim is being filed.

3. Each applicant should specify how it used the product—i.e., whether it was a refiner, reseller, retailer, consignee or end-user.

4. Each applicant must submit a monthly, quarterly or yearly purchase schedule for Gulf purchases during the period August 1973 through January 27, 1981.

5. If an applicant purchased Gulf refined products from a reseller, it must establish its basis for belief that the product originated with Gulf and identify the reseller from whom the product was purchased. Indirect purchasers who either fall within a class of applicants whose injury is presumed, or who can prove injury, may be eligible for a refund if the reseller of Gulf products passed through the alleged Gulf overcharges to its own customers.

6. The application for refund should contain the name, address, and telephone number of the person who prepared the application. If the preparer was someone other than the applicant,

[4] Claimants whose monthly purchases during the period for which a refund is claimed result in a volumetric refund of greater than $5,000, but who cannot establish that they did not pass through the alleged price increases to their customers, or who limit their claims to the threshold amount will be eligible for a refund of the $5,000 threshold amount without being required to submit additional evidence of injury. *See Office of Enforcement*, 10 DOE ¶ 85,029 at 88,122 (1982) (*Ada*); *Office of Enforcement*, 8 DOE ¶ 82,597 at 85,396 (1981) (*Vickers*).

the applicant should furnish us with the name and telephone number of a contact person familiar with the facts set forth in the application whom we may contact for additional information concerning the application. Unless otherwise specified, the refund check will be issued to the preparer.

7. Each applicant must indicate whether it or a related firm has authorized any individual to file any other refund application in this Gulf refund proceeding on its behalf, and if so attach an explanation.

8. Each applicant must indicate whether it is a Gulf consignee.

9. Each applicant must indicate whether it received a refund in any other Gulf refund proceeding.

10. If the applicant is affiliated or associated with Gulf in any manner, it must so indicate and provide information explaining the nature of its relationship with the consent order firm.

11. If the applicant has been involved in an enforcement proceeding brought by the DOE, it must provide a summary of the present status of the proceeding, or if the matter is no longer pending, it must indicate how the proceeding was resolved.

12. If the applicant is a firm which did not actually purchase gasoline from Gulf but is a successor to a Gulf customer, the applicant must provide evidence establishing that it, rather than Gulf's former customer, if entitled to a refund.

13. Each application must include the following statement: "I swear (or affirm) that the information submitted is true and accurate to the best of my knowledge and belief." *See* 10 CFR 205.283(c); 18 U.S.C. 1001.

14. All applications for refund must be filed in duplicate. A copy of each application will be available for public inspection in the Public Reference Room of the Office of Hearings and Appeals, Forrestal Building, Room 1E-234, 1000 Independence Avenue, SW., Washington, DC 20585. Any applicant who believes that its application contains confidential information must so indicate on the first page of its application and submit two additional copies of its application from which the confidential information has been deleted, together with a statement specifying why any such information is privileged or confidential.

15. Applications should be sent to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

16. Applications must be postmarked no later than June 30, 1988. All timely applications for refund will be processed pursuant to 10 CFR 205.284 and the procedures set forth in this Decision and Order.

(C) Distribution of the Remainder of the Consent Order Pool Attributable to Gulf's Refined Product Sales.

In the event that money remains after all refund claims from the Gulf refined product refund pool have been disposed of, undistributed funds in that refund pool will be disbursed in accordance with the provisions of the Petroleum Overcharge Distribution and Restitution Act of 1986, H.R. 5300, Title III, 99th Cong. 2d Session., Cong. Rec. H11319-21, (Daily E. October 17, 1986).

It is Therefore Ordered That:

(1) Applications for refined product refunds from the fund remitted to the Department of Energy by Gulf Oil Corporation pursuant to the consent order that became effective on June 14, 1985, may now be filed.

(2) Applications for Refund from the Gulf Oil Corporation refined product refund pool must be postmarked no later than June 30, 1988.

George B. Breznay,

Director, Office of Hearings and Appeals.

Date: September 8, 1987.

[FR Doc. 87-21163 Filed 9-14-87; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Requirement Approval by Office of Management and Budget

September 9, 1987.

The following information collection requirements have been approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507). For further information contact Terry Johnson, Federal Communications Commission, telephone (202) 632-7513.

OMB No.: 3060-0110

Title: Application for Renewal of License for Commercial and Noncommercial AM, FM or TV Broadcast Station

Form No.: FCC 303-S

The approval on application form FCC 303-S has been extended through 8/31/90. The November 1986 edition with a previous expiration of 8/31/87 will remain in use until updated forms are available.

OMB No.: 3060-0075

Title: Application for Transfer of Control of Corporate Licensee or Permittee, or Assignment of License or Permit, for an AM or TV Translator Station, or a Low Power Television Station

Form No.: FCC 345

The approval on application form FCC 345 has been extended through 8/31/90. The June 1985 edition with a previous expiration of 8/31/87 will remain in use until updated forms are available.

OMB No.: 3060-0018

Title: Application for Renewal of License for Translator or Low Power Television Broadcast Station

Form No.: FCC 348

The approval on application form FCC 348 has been extended through 8/31/90. The February 1985 edition with a previous expiration of 8/31/87 will remain in use until updated forms are available.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-21119 Filed 9-14-87; 8:45 am]

BILLING CODE 6712-01-M

Public Information Collection Requirement Submitted to the Office of Management and Budget for Review

September 1, 1987.

On July 21, 1987, the Federal Communications Commission submitted a proposed Broadcast Equal Employment Opportunity Program Report to OMB for review and clearance under the Paperwork Reduction Act of 1980, 44 U.S.C. 3507. The notice was published on July 29, 1987 (52 FR 28344). The Commission has determined that an amendment is necessary to clarify the time periods to be reported for job hires and promotions requested in Sections IV and V of the form (FFC 396) which is presently under review. The second paragraph in each section is revised to read as follows:

During the twelve-month period *prior to filing this report* beginning (Month-Day-Year) and ending (Month-Day-Year), we hired/promoted:

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-21115 Filed 9-14-87; 8:45 am]

BILLING CODE 6712-01-M

[PRB-3]

Privatization of Special Call Sign System for Amateur Stations; Extension of Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Notice extension of time for filing reply comments.

SUMMARY: Forest Industries Telecommunications (FIT) has requested that the time for filing reply comments in this proceeding concerning Privation of Special Call Sign System for Amateur Stations be extended. FIT has shown good cause why such extension of time would be in the public interest.

DATE: Reply comments must be filed on or before September 8, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Maurice J. DePont; Private Radio Bureau.

SUPPLEMENTARY INFORMATION: The original Notice was published on April 13, 1987, 52 FR 11884.

Order

In the matter of privatization of special call sign system for amateur stations.

Adopted: August 26, 1987.

Released: August 28, 1987.

By the Acting Chief, Private Radio Bureau.

On February 3, 1987, the FCC Issued a Public Notice in this proceeding concerning a special call sign system for amateur stations. The extended reply comment period expires August 31, 1987. Forest industries Telecommunications (FIT) has requested that the time for filing reply comments be extended to and including September 8, 1987.

2. In support of its request, FIT states that because of the relatively large volume of comments filed and the inherent delays in obtaining copies from the public reference facility at Gettysburg, Pennsylvania, it would not be possible to review the comments and to prepare and file meaningful replies by the due date. FIT believes that the extension of time requested will be helpful in developing a more complete record. We believe that the input of FIT will be useful and will further that goal.

3. In view of the foregoing, and pursuant to the authority contained in § 0.331 of the FCC Rules, the request of FIT for an extension of time in which to file reply comments IS GRANTED. Reply comments concerning PRB-3 are due on or before September 8, 1987.

Federal Communications Commission.

Richard J. Shiben,

Acting Chief, Private Radio Bureau.

[FR Doc. 87-21112 Filed 9-14-87; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL HOME LOAN BANK BOARD

[No. 87-950]

FSLIC Insurance Premium

Date: September 9, 1987.

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice.

SUMMARY: The Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC" or "Corporation"), has adopted a resolution pursuant to which the Corporation ordered the assessment against each insured institution of an additional premium for FSLIC insurance in an amount equal to one thirty-second of one percent of the total amount of the accounts of the insured members of each insured institution determined as of June 30, 1987.

EFFECTIVE DATE: September 15, 1987.

FOR FURTHER INFORMATION CONTACT: Mary A. Creedon, Director, Insurance Division, Office of the FSLIC, (202) 377-6620; or JoAnne Morris, Attorney, Office of General Counsel (202) 377-7396, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

Whereas, The Federal Home Loan Bank Board ("Bank Board"), as operating head of the Federal Savings and Loan Insurance Corporation ("Corporation" or "FSLIC"), may authorize the Corporation, pursuant to section 404(c) of the National Housing Act, as amended ("NHA"), 12 U.S.C. 1727(c) (1982), to assess against each institution the accounts of which are insured by the Corporation pursuant to section 403 of the NHA, 12 U.S.C. 1726 (1982) ("insured institution"), additional premiums for such insurance until the amount of such premiums equals the amount of all losses and expenses of the Corporation, *provided* that the total amount so assessed in any one year against any insured institution shall not exceed one eighth of one per centum of the total amount of the accounts of the insured members of such institution and *provided further* that the amount of the additional premium for the year 1987 may not exceed 3/4s of one percentum of the total amount of the accounts of the insured members of such institution unless the Bank Board determines that severe pressures on the Corportion exist which necessitate an infusion of additional funds; and

Whereas, The Bank Board, as operating head of the Corporation, by Resolution No. 85-142, dated February 22, 1985, by Resolution No. 85-437, dated June 5, 1985, by Resolution No. 85-770, dated August 28, 1985, by Resolution No. 85-1142, dated December 9, 1985, by Resolution No. 86-213, dated March 6, 1986, by Resolution No. 86-582, dated June 10, 1986, by Resolution No. 86-941, dated September 2, 1986, by Resolution No. 86-1253, dated December 15, 1986, by Resolution No. 87-281 dated March 16, 1987, and by Resolution No. 87-610 dated May 27, 1987, ordered assessments against each insured institution of an additional premium for insurance in an amount equal to one thirty-second of one per centum of the total amount of the accounts of the insured members of each insured institution determined as of December 31, 1984, for the first assessment, as of March 31, 1985, for the second, as of June 30, 1985, for the third, as of September 30, 1985, for the fourth, as of December 31, 1985, for the fifth, as of March 31, 1986, for the sixth, as of June 30, 1986, for the seventh, as of September 30, 1986, for the eighth, as of December 31, 1986, for the ninth, and as of March 31, 1987, for the tenth; and

Whereas, The total insurance premiums assessed for the first and second quarter of 1987 equal three forty-eighths of one percentum of the total amount of the accounts of the insured members of the insured institutions; and

Whereas, The Bank Board has considered memoranda of the Corporate Accounting Branch and the Chief Financial and Administrative Officer, Office of the FSLIC, (a copy of which memoranda are in the Minute Exhibit file), describing the impact of the collection of the additional premiums for insurance assessed pursuant to Resolution No. 85-142, dated February 22, 1985, Resolution No. 85-437, dated June 5, 1985, Resolution No. 85-770, dated August 28, 1985, Resolution No. 85-1142, dated December 9, 1985, Resolution No. 86-213, dated March 6, 1986, Resolution No. 86-582, dated June 10, 1986, Resolution No. 86-941, dated September 2, 1986, Resolution No. 86-1253, dated December 15, 1986, Resolution No. 87-281, dated March 16, 1987, and Resolution No. 87-610 dated May 27, 1987, upon the Corporation's insurance reserves:

Now, therefore, it is resolved, That on the basis of the administrative record, the Bank Board finds and determines that the Corporation has incurred substantial losses during calendar years 1981 through 1986 and the first two quarters of 1987; and

Resolved further, That the Bank Board finds and determines that:

1. Losses and expenses incurred by the Corporation, as defined in Resolution No. 85–142, require the assessment of additional insurance premiums pursuant to section 404(c) of the NHA in addition to the additional insurance premiums assessed pursuant to Resolutions No. 85–142, No. 85–437, No. 85–770, No. 85–1142, No. 86–213, No. 86–582, No. 86–941, No. 86–1253, No. 87–281, and No. 87–610 in order to maintain the insurance reserves of the Corporation at a level adequate to meet in part the Corporation's losses and expenses and to protect the insured members of insured institutions;

2. It is appropriate, therefore, to provide for the assessment of an additional insurance premium at this time, pursuant to section 404(a)(2) and 404(c)(1) of the NHA, by order of the Corporation; and

Resolved further, That the Corporation hereby orders the assessment against each insured institution of an additional premium for insurance for the third quarter of 1987, in an amount equal to one thirty-second of one per centum of the total amount of the accounts of the insured members of such insured institution determined as of June 30, 1987; and

Resolved further, That the additional insurance premium assessed pursuant to this Resolution shall be payable on or about September 30, 1987; and

Resolved further, That the Director or Deputy Director, Office of the FSLIC ("Director"), shall determine the amount of the additional premium due to be paid on September 30, 1987, by each insured institution and shall notify each insured institution of such amount at least fifteen (15) days prior to the date such amount is due; and

Resolved further, That the Director, on behalf of the Corporation, is hereby authorized to take all other actions necessary or appropriate to determine and collect the additional insurance premium autborized and ordered by this Resolution; and

Resolved further, That the Secretary shall forward this Resolution for publication in the **Federal Register.**

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 87–21145 Filed 9–14–87; 8:45 am]

BILLING CODE 6720–01–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed; American Transport Lines, Inc. et al.

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202–009648A–042.

Title: Inter-American Freight Conference.

Parties:

A. Bottacchi S.A. De Navegacion C.F.I.e I.
American Transport Lines, Inc.
A/S Ivarans Rederi
Brazil-America Container Line
Companhia Maritima Nacional
Companhia De Navegacao Lloyd Brasileiro
Companhia De Navegacao Maritima Netumar
Empresa Lineas Maritimas Argentinas Sociedad Anonima (Elma S/A)
Empresa De Navegacao Allianca S.A.
Frota Amazonica
Georgia-Aztec Line
Van Nievelt Goudriaan & Co. B.V.
Sea-Land Service, Inc.
Transportacion Maritima Mexicana, S.A.
Columbus Line

Synopsis: The proposed amendment would provide that open-rated items may not be established without the unanimous approval of the member lines present and entitled to vote in the conference section involved.

Agreement No.: 202–010689–027.

Title: Transpacific Westbound Rate Agreement.

Parties:

American President Lines, Ltd.
Hanjin Container Lines, Ltd.
Hyundai Merchant Marine Co., Ltd.
Japan Line, Ltd.
Kawasaki Kisen Kaisha, Ltd.
Mitsui O.S.K. Lines, Ltd.
A.P. Moller-Maersk Line
Neptune Orient Lines, Ltd.
Nippon Yusen Kaisha, Ltd.
Sea-Land Service, Inc.
Showa Line, Ltd.
Yamashita-Shinnihon Steamship Co., Ltd.
Orient Overseas Container Line, Inc.

Synopsis: The proposed amendment would preclude members from entering into loyalty contracts either with conference approval or by independent action.

By Order of the Federal Maritime Commission.

Tony P. Kominoth,

Assistant Secretary.

Dated: September 9, 1987.

[FR Doc. 87–21106 Filed 9–14–87; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Acquisition of Company Engaged in Nonbanking Activities; Centerre Bancorporation

The organization listed in this notice has applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 30, 1987.

A. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Centerre Bancorporation,* St. Louis, Missouri; to acquire Reed Employee Benefit Systems, Inc., Maryland Heights, Missouri, through its wholly-owned subsidiary, Benefit Plan Services, Inc., Maryland Heights, Missouri, and thereby engage in providing certain administrative services, with respect to employee benefit plans established by employers pursuant to defined benefit plans, defined contribution plans, 401–K plans and profit sharing plans.

Board of Governors of the Federal Reserve System, September 9, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87–21116 Filed 9–14–87; 8:45 am]

BILLING CODE 6210–01–M

Formations of, Acquisitions by, and Mergers of Bank Holding Companies; First Security Affiliates, Inc., et al.

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than October 2, 1987.

A. **Federal Reserve Bank of Cleveland** (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *First Security Affiliates, Inc.,* Lexington, Kentucky; to merge with State Financial Bancshares, Inc., Richmond, Kentucky, and thereby indirectly acquire State Bank and Trust Company of Richmond, Richmond, Kentucky.

2. *First Security Corporation of Kentucky,* Lexington, Kentucky; to acquire 100 percent of the voting shares of State Bank & Trust Co. of Richmond, Richmond, Kentucky.

3. *First Southern Bancorp, Inc.,* Stanford, Kentucky; to become a bank holding company by acquiring 99 percent of the voting shares of National Bank of Lancaster, Lancaster, Kentucky; First State Bank of Wayne County, Monticello, Kentucky; and Lincoln County National Bank, Stanford, Kentucky.

B. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Magna Group, Inc.,* Belleville, Illinois; to acquire 100 percent of the voting shares of The First National Bank of Wood River, Wood River, Illinois.

2. *Magna Group, Inc.,* Belleville, Illinois, and MCB Acquisition Company, Belleville, Illinois; to acquire 100 percent of the voting shares of McLean County Bancshares, Inc., Bloomington, Illinois, and thereby indirectly acquire McLean County Bank, Bloomington, Illinois, and Stanford State Bank, Stanford, Illinois. In connection with this application, MCB Acquisition Company has also applied to become a bank holding company.

Board of Governors of the Federal Reserve System, September 9, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87–21117 Filed 9–14–87; 8:45 am]

BILLING CODE 6210–01–M

Application To Engage de Novo in Permissible Nonbanking Activities; Investark Bankshares, Inc.

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 2, 1987.

A. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Investark Bankshares, Inc.,* Stuttgart, Arkansas; to engage *de novo* in performing real estate appraisals pursuant to § 225.25(b)(13) of the Board's Regulation Y. This activity will be conducted in the State of Arkansas.

Board of Governors of the Federal Reserve System, September 9, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87–21118 Filed 9–14–87; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Advisory Committees; Meetings; Office of the Assistant Secretary for Health

In accordance with section 19(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory bodies scheduled to meet during the month of October 1987:

Name: Health Services Developmental Grants Review Subcommittee.

Date and Time: October 6–7, 1987, 8:30 a.m.

Place: Linden Hill Hotel, Forest Hill Room, 5400 Pooks Hill Road, Bethesda, Maryland.

Open October 6, 8:30 a.m. to 9:30 a.m.

Closed for remainder of meeting.

Purpose: The Subcommittee is charged with the initial review of grant applications proposing to do analysis of data derived from experiments and

demonstrations designed to test the cost-effectiveness or efficiency of particular methods of health services delivery and financing, for the research grants program administered by the National Center for Health Services Research and Health Care Technology Assessment.

Agenda: The open session of the meeting of October 6 from 8:30 a.m. to 9:30 a.m. will be devoted to a business meeting covering administrative matters and reports. There will also be a presentation by the Director, NCHSR. During the closed sessions, the Subcommittee will be reviewing research grant applications relating to the delivery, organization, and financing of health services. In accordance with the Federal Advisory Committee Act, Title 5, U.S. Code, Appendix 2 and Title 5, U.S. Code 552(c)(6), the Director, National Center for Health Services Research and Health Care Technology Assessment has made a formal determination that these latter sessions will be closed because the discussions are likely to reveal personal information concerning individuals associated with the applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a Roster of Members, Minutes of Meeting, or other relevant information should contact Mr. Hoke S. Glover, National Center for Health Services Research and Health Care Technology Assessment, Room 18A20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–3091.

Name: Health Services Research Review Subcommittee.

Date and Time: October 8–9, 1987, 8:00 a.m.

Place: Holiday Inn—Crowne Plaza, Woodmont Room, 1750 Rockville Pike, Rockville, Maryland.

Open October 8, 8:00 a.m. to 9:00 a.m.

Closed for remainder of meeting.

Purpose: The Subcommittee is charged with the initial review of grant applications proposing analytical and theoretical research on costs, quality, access, and efficiency of the delivery of health services for the research grants program administered by the National Center for Health Services Research and Health Care Technology Assessment.

Agenda: The open session of the meeting on October 8 from 8:00 a.m. to 9:00 a.m. will be devoted to a business meeting covering administration and reports. There will also be a presentation by the Director, NCHSR. During the closed sessions, the Subcommittee will be reviewing research grant applications relating to the delivery, organization, and financing of health services. In accordance with the Federal Advisory Committee Act, Title 5, U.S. Code, Appendix 2 and Title 5, U.S. Code 552(c)(6), the Director, National Center for Health Services Research and Health Care Technology Assessment has made a formal determination that these latter sessions will be closed because the discussions are likely to reveal personal information concerning individuals associated with the applications. The information is exempt from mandatory disclosure.

Anyone wishing to obtain a Roster of Members, Minutes of Meeting, or other relevant information should contact Dr. Anthony Pollitt, National Center for Health Services Research and Health Care Technology Assessment, Room 18A20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–3091.

Name: Health Care Technology Study Section.

Date and Time: October 21–23, 1987, 1:30 p.m.

Place: Charity Hospital, The Auditorium, 1532 Tulane Avenue, New Orleans, Louisiana.

Open October 21, 1:30 p.m. to 5:00 p.m.

Closed for remainder of meeting.

Purpose: The Study Section is charged with conducting the initial review of health services research grant applications addressing the effects of health care technologies and procedures, including those in the area of information sciences, as well as those addressing the process of diffusion and adoption of new technologies and procedures.

Agenda: The open session from 1:30 p.m. to 5:00 p.m. on Octobr 21 will be devoted to a business meeting covering administrative matters and reports as well as a seminar on the grants review process. There will also be a presentation by the Director, NCHSR. The closed sessions of the meeting will be devoted to review of health services research grant applications relating to the delivery, organization, and financing of health services. In accordance with the Federal Advisory Committee Act, Title 5, U.S. Code, Appendix 2 and Title 5, U.S. Code 552(c)(6), the Director, National Center for Health Services Research and Health Care Technology Assessment has made a formal determination that these latter sessions will be closed because the discussions are likely to reveal personal information concerning individuals associated with the applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a Roster of Members, Minutes of Meeting, or other relevant information should contact Dr. Alan E. Mayers, National Center for Health Services Research and Health Care Technology Assessment, Room 18A20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–3091.

Agenda items are subject to change as priorities dictate.

Date: September 3, 1987.

J. Michael Fitzmaurice,

Director, National Center for Health Services Research and Health Care Technology Assessment.

[FR Doc. 87-21201 Filed 9-14-87; 8:45 am]

BILLING CODE 4160-17-M

Health Care Financing Administration

Privacy Act of 1974; Report of New System

AGENCY: Health Care Financing Administration (HCFA), Department of Health and Human Services (HHS).

ACTION: Notice of new system of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, we are proposing to establish a new system of records, "Medicare Hearings and Appeals System (MHAS)," HHS/HCFA/AAO No. 09–70–5001. We have provided background information about the proposed system in the "Supplementary Information" section below. Although the Privacy Act requires only that the "routine uses" portion of the system be published for comment, HCFA invites comments on all portions of this notice. Please note, however, that comments with respect to "routine uses" must be received by October 15, 1987.

DATES: HCFA filed a new system report with the Speaker of the House, the President of the Senate, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), on September 10, 1987. In addition, HCFA has requested a waiver of the OMB requirement for this notice to remain in the **Federal Register** for a total of 60 days. (Sections 1869(b)(1) (C) and (D) of the Social Security Act, as amended by section 9341 of the Omnibus Budget Reconciliation Act of 1986, mandates that the Department of Health and Human Services establish a hearings and appeals process for claims under Medicare Part B for services rendered after January 1, 1987. In April 1987, the Department decided that HCFA would establish the Bureau of Medicare Hearings and Appeals to handle all Medicare beneficiary appeals including those types of cases currently processed by the Social Security Administration's

Office of Hearings and Appeals (except for Part A and Part B beneficiary entitlement appeals, which would remain in SSA). The waiver is requested in order to afford individuals timely decisions on their requests for hearings and appeals). If granted, the new system of records, including routine uses, will become effective October 13, 1987, unless HCFA receives comments which would convince us to make a contrary determination. The new Bureau will also be responsible for, and the new system of records will be applicable to, provider certification and termination appeals and appeals from determinations made by Peer Review Organizations in accordance with sections 1155 and 1156 of the Social Security Act.

ADDRESS: The public should address comments to Richard A. DeMeo, HCFA Privacy Act Officer, Office of Management and Budget, Health Care Financing Administration, Room G–A–1, East Low Rise, 6325 Security Boulevard, Baltimore, Maryland 21207. Comments received will be available for inspection at this location.

FOR FURTHER INFORMATION CONTACT: Richard Kisseberth, Office of Program Review and Evaluation, Bureau of Quality Control, Health Care Financing Administration, Room 239, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207, Telephone 301–594–8090.

SUPPLEMENTARY INFORMATION: HCFA proposes to initiate a new system of records and to collect data under the authority of sections 1869(b)(1) (C) and (D) of the Social Security Act which changes Medicare Part B appeal rights and is in accordance with Congressional expectation that HCFA establish a separate office of hearings and appeals for all Medicare beneficiary appeals. The system will also be applicable to provider certification and termination appeals and appeals from determinations made by Peer Review Organizations, in accordance with sections 1155 and 1156 of the Social Security Act.

The Privacy Act permits us to disclose information without consent of the individual for "routine uses"—that is, disclosure for purposes that are compatible with the purpose for which we collect the information. Information may also be disclosed if required by the Freedom of Information Act. The proposed routine uses in the new system meet the compatibility criteria, since the information is collected for administering a hearings and appeals process in accordance with Title XVIII and Part B of Title XI of the Social Security Act. We anticipate that disclosure under the routine uses will not result in any unwarranted adverse effects on personal privacy.

Dated: September 9, 1987.

William L. Roper,

Administrator, Health Care Financing Administration.

09–70–5001

SYSTEM NAME:

Medicare Hearings and Appeals System (MHAS).

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Health Care Financing Administration, 6325 Security Boulevard (Paper Media), Baltimore, Maryland 21207. (Contact system manager for location of Magnetic Media computerized records.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All individuals who request a hearing by an administrative law judge (ALJ) or appeal an ALJ decision on cases administered by HCFA pursuant to Titles XI, XVIII, and XIX of the Social Security Act, as amended.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains information concerning Medicare beneficiaries and physicians and other persons involved in furnishing services to Health Insurance beneficiaries. Information on beneficiaries may include: name, address, SSN, medical services, equipment, and supplies for which Medicare reimbursement is requested, and material used to determine amount of benefits allowable under Medicare. Information on physicians and other persons may include: name, address, specialty, identification number, medical services for which Medicare reimbursement is requested, material used to determine amount of benefits allowable under Medicare, and material used to determine whether a sanction or suspension is warranted.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 205, 1155, 1156, 1869, and 1872 of the Social Security Act, as amended.

PURPOSE OF THE SYSTEM:

The Hearing and Appeals File contains information used in processing the claimant's Request for Hearing or Appeal; information for the conduct of the hearing or appeal; information the Administrative Law Judge uses to reach a decision; and information to reply to future correspondence.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Disclosures may be made to: (1) A contractor for the purpose of collating, analyzing, aggregating or otherwise refining or processing records in this system or for developing, modifying and/or manipulating ADP software. Data would also be disclosed to contractors incidental to consultation, programming, operation, user assistance, or maintenance for an ADP or telecommunications system containing or supporting records in the system.

(2) A congressional office from the record of an individual in response to an inquiry from the congressional office at the request of that individual.

(3) To the Department of Justice, to a court or other tribunal, or to another party before such tribunal, when

(a) HHS, or any component thereof; or

(b) Any HHS employee in his or her official capacity; or

(c) Any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or

(d) The United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the tribunal, or the other party is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

(4) The Department of Justice for investigation and prosecuting violations of the Social Security Act to which criminal penalities attach, or other criminal statues as they pertain to the Social Security Act programs, for representing the Secretary, and for investigating issues of fraud by agency officers or employees, or violation of civil rights.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM

STORAGE:

Paper and magnetic media.

RETRIEVABILITY:

Records are normally retrieved numerically by the docket control number. However, records will be cross-referenced by the beneficiary's social security number, physician's or other individual's identification number, and alphabetically by name, in order to associate correspondence.

SAFEGUARDS:

a. Authorized Users: Only agency employees and contractor personnel whose duties require the use of information in the system. In addition, such agency employees and contractor personnel are advised that the information is confidential and of criminal sanctions for unauthorized disclosure of information.

b. Physical Safeguards: Records are stored in locked files or secured areas. Computer terminals are in secured areas.

c. Procedural Safeguards: Employees who maintain records in the system are instructed to grant regular access only to authorized users. Data stored in computers are accessed through the use of passwords known only to authorized personnel.

Contractors who maintain records in this system are instructed to make no further disclosure of the records except as authorized by the system manager and permitted by the Privacy Act. Privacy Act language is included in contracts related to this system.

d. Implementation Guidelines: Safeguards are implemented in accordance with all guidelines required by the Department of Health and Human Services. Safeguards for automated records have been established in accordance with the Department of HHS' Automated Data Processing Manual, "Part 6, ADP System Security."

RETENTION AND DISPOSAL:

Records are retained for 10 years after the last action on the record.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Administrator/Office of Associate Administrator of Operations, Health Care Financing Administration, Room 742, East High Rise, 6325 Security Boulevard, Baltimore, Maryland 21207.

NOTIFICATION PROCEDURES:

Inquiries and requests for system records should be addressed to the system manager at the address above. The requestor must specify the case control number or the claimant's name and health insurance claim number or provider number.

RECORD ACCESS PROCEDURES:

Same as notification procedure. Requestors should also reasonably specify the record contents being sought. (These procedures are in accordance with Departmental Regulations, 45 CFR 5b.7.)

CONTESTING RECORD PROCEDURES:

Contact the system manager named above, and reasonably identify the record and specify the information to be contested. State the reason for contesting it (e.g., why it is inaccurate, irrelevant, incomplete or not current). (These procedures are in accordance with Departmental Regulations, 45 CFR 5b.7.)

RECORDS SOURCE CATEGORIES:

HCFA obtains the identifying information in this system from the request for a Medicare hearing or appeal. Information in these records are obtained from Medicare carrier or intermediary, or Peer Review Organization records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ARTS:

None.

[FR Doc. 87-21124 Filed 9-14-87; 8:45 am]
BILLING CODE 4120-03-M

[BERC-394-CN]

Medicare Program; Proposed Additions To and Deletions From the Current List of Covered Surgical Procedures for Ambulatory Surgical Centers; Correction

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Correction of proposed notice.

SUMMARY: This document corrects technical errors that appeared in the proposed notice that was published in the **Federal Register** on August 11, 1987 (52 FR 29729) on proposed additions to and deletions from the current list of covered surgical procedures for ambulatory surgical centers (ASCs).

FOR FURTHER INFORMATION CONTACT: Jackie Greene, (301) 597-2989.

SUPPLEMENTARY INFORMATION: In **Federal Register** document 87-18220 beginning on page 29729, in the issue of August 11, 1987, make the following corrections:

1. On page 29730, in the first column, the second sentence of the last paragraph should read "An expanded list of covered procedures was published as a final notice in the Federal Register on April 21, 1987 (52 FR 13176)." The third sentence should begin "That list also deleted * * *".

2. On page 29730, in the third column, the heading for section III should read "III. Proposed Deletions".

3. On page 29731, in the first column, the procedure codes and descriptions that appear before "Musculoskeletal" should read as follows:

11401 Excision, benign lesion, except skin tag (unless listed elsewhere), trunk, arms or legs; lesion diameter 0.6 to 1.0 cm
11402 lesion diameter 1.1to 2.0 cm
11403 lesion diameter 2.1 to 3.0 cm
11404 lesion diameter 3.1 to 4.0 cm
11421 Excision, benign lesion, except skin tag (unless listed elsewhere), scalp, neck, hands, feet, genitaliz, lesion diameter 0.6 to 1.0 cm
11422 lesion diameter 1.1 to 2.0 cm
11423 lesion diameter 2.1 to 3.0 cm
11441 Excision, other benign lesion (unless listed elsewhere), face ears, eyelids, nose, lips, mucous membrane; lesion diameter 0.6 to 1.0 cm
11442 lesion diameter 1.1 to 2.0 cm
11443 lesion diameter 2.1 to 3.0 cm
11444 lesion diameter 3.1 to 4.0 cm
11600 Excision, malignant lesion, trunk, arms, or legs; lesion diameter up to 0.5 cm
11601 lesion diameter 0.6 to 1.0 cm
11602 lesion diameter 1.1 to 2.0 cm
11603 lesion diameter 2.1 to 3.0 cm
11604 lesion diameter 3.1 to 4.0 cm
11620 Excision, malignant lesion, scalp, neck, hands, feet, genitalia; lesion diameter up to 0.5 cm
11621 lesion diameter 0.6 to 1.0 cm
11622 lesion diameter 1.1 to 2.0 cm
11623 lesion diameter 2.1 to 3.0 cm
11624 lesion diameter 3.1 to 4.0 cm
11640 Excision, malignant lesion, face, ears, eyelids, nose, lips; lesion diameter up to 0.5 cm
11641 lesion diameter 0.6 to 1.0 cm
11642 lesion diameter 1.1 to 2.0 cm
11643 lesion diameter 2.1 to 3.0 cm
11644 lesion diameter 3.1 to 4.0 cm
11750 Excision of nail and nail matrix, partial or complete, (eg, ingrown or deformed nail) for permanent removal

A correction has been made to the initial dimension of the diameters for each of these procedures.

4. On page 29731, in the second column, the procedure description for code 45910 should read "Dilation of rectal stricture (separate procedure) under anesthesia other than local".

5. On page 29731, in the second column, a procedure description for code 53621 is added to read "subsequent".

6. On page 29731, in the second column, after "57400 Dilation of vagina under anesthesia" and before "Culdoscopy, diagnostic", code "57450" is added.

7. On page 29731, in the third column, the material that appeared as the last paragraph should have appeared as

several paragraphs that should have read as follows:

"The great majority of the services billed under these codes in our available claims data were furnished in doctors' offices. We do not expect this notice to result in a significant shift of site of service, or to result in significant savings. Therefore, we have determined that this proposed notice is not a major rule, and that a regulatory impact analysis is not required.

"B. Regulatory Flexibility Act

"We prepare and publish an initial regulatory flexibility analysis consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) for proposed notices unless the Secretary certifies that the notice would not have a significant impact on a substantial number of small entities. For purposes of the RFA, we consider all ASCs to be small entities.

"As of January 1987, there were 682 ASCs participating in Medicare. Some of these centers specialize, and would be affected only to the extent that they offer procedures proposed for deletions. Nonetheless, we expect most ASCs to be affected to some extent.

"Our site-of-service data are for calendar year 1984, since there are lags due to billing, reporting, and accumulating data to create usable files. Our data show only a small proportion of all procedures being performed in ASCs. More than 75 percent of the approved claims that were submitted under the codes we propose to delete were for services furnished in physicians' offices, and less than one percent were for services furnished in ASCs. Although there were fewer ASCs in 1984 than at present, we do not believe that these services are being frequently furnished in them, and do not expect these deletions would affect their revenues significantly."

8. On page 29732, in the first column, the first sentence of the first full paragraph should read "In view of the large number of procedures being added to the list of covered ASC procedures through a notice published in the Federal Register on April 21, 1987 (52 FR 13176), we believe that affected ASCs would not experience a significant adverse impact from the proposed deletions."

9. On page 29732, in the first column, the last paragraph should read "Because of the large number of pieces of correspondence we normally receive on proposed notices, we cannot acknowledge or respond to them individually. However, we will consider all comments that are received by the end of the comment period. After review of those comments, we may decide to proceed with either a final notice or an additional proposed notice, as appropriate."

10. On page 29732, in the second column, the authority citation should read "(Sec. 1833(i)(1) of the Social Security Act (42 U.S.C. 1395l(i)(1); 42 CFR 416.65))".

(Sec. 1833(i)(1) of the Social Security Act (42 U.S.C. 1395l(i)(1); 42 CFR 416.65))

(Catalog of Federal Domestic Assistance Program No. 13.774, Medicare—Supplementary Medical Insurance Program)

Dated: September 4, 1987.

James F. Trickett,

Deputy Assistant Secretary for Administrative and Management Services.

[FR Doc. 87-21165 Filed 9-14-87; 8:45 am]

BILLING CODE 4120-01-M

Statement of Organization, Functions, and Delegations of Authority

Part F. of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Health Care Financing Administration (HCFA), **Federal Register**, Vol. 46, No. 223, page 56928 and page 56929, dated Thursday, November 19, 1981; and **Federal Register**, Vol. 48, No. 196, page 46446 and page 46447, dated Wednesday, October 12, 1983) is amended to reflect a reorganization within Region III and Region VIII, Office of the Associate Administrator for Operations (AAO). Both Regional Offices are in the process of reorganizing from a functional structure to a program structure with respect to the administration of Medicare and Medicaid. The reorganizations are pilot tersts which are targeted to be up to 2 years in duration. This reorganization eliminates the current Divisions of Program Operations and Financial Operations in Regions III and VIII and replaces them with the Division of Medicaid and the Division of Medicare.

The specific amendments to Part F. are described below:

- Section FP.20.D., Office of the Regional Administrator (FPD(I-X)), is amended by changing the administrative code from (FPD(I-X)) to (FPD(I, II, IV-VII, IX, X)).
- Section FP.20.D.3., Division of Financial Operations (FPD(I-X)C), is amended by changing the administrative code from (FPD(I-X)C) to (FPD(I, II, VII, IV-IX, X)C)).
- Section FP.20.D.4., Division of Program Operations (FPD(I-X)D), is amended by changing the administrative code from (FPD(I-X)D) to (FPD(I, II, IV-VII, IX, X)D).
- Section FP.20.D., the Office of the Regional Administrator (FPD(I, II, IV-VII, IX, X)), is further amended by adding the following two new organizational components. The new components should be placed directly after Section FP.20.D.4., Division of Program Operations (FPD(I, II, IV-VII, IX, X). The new components will become FP.20D.5., Division of Medicaid, and FP.20.D.6., Division of Mediare. The new functional statements read as follows:

5. Division of Medicaid (FPD(III, VIII)E)

Under the direction of the HCFA Regional Administrator, plans, manages, and provides Federal leadership to State agencies in program implementation, maintenance, and the regulatory review of State Medicaid program management activites under Title XIX of the Social Security Act and assures the propriety of Federal expenditures. Provides consultation and guidance to States on appropriate matters including interpretation of Federal requirements, options available to States under these requirements, and information on practices in other States. Maintains day-to-day liaison with State agencies and monitors their Medicaid program activities and practices by conducting periodic program managment and financial reviews to assure State adherence to Federal law and regulations. Reviews, approves, and maintains official State plans and plan amendments for medical assistance. Provides consultation to States in the administration of the amount, duration, scope, and reimbursement of health services available under the State program. Reviews, approves, and monitors State reimbursement systems and determines the allowability or non-allowability of claims for Federal financial participation; and where State expenditures have not been in accordance with Federal requirements, takes action to disallow such claims. Stimulates State action toward achievement of selected program objectives and monitors their progress. Reviews States' quarterly estimates of expenditures under the Medicaid program and recommends the amount to be estimated in the quartely grants. Reviews States' quarterly statements of expenditures and recommends appropriate action on amounts claimed. Defers reimbursement action on questionable State claims, reviews the cliams for allowability, and recommends appropriate action. Issues orders suspending Federal Financial

Participation on behalf of State payments to Title XIX provider institutions and the revocation of such suspension orders. Supports, evaluates, and provides advice on State managment information and claims payment systems. Implements Title XIX special initiatives, such as Prepaid Health Plans, Health Maintenance Organizations, and other special or experimental programs, and operation of major management initiatives such as quality control. Where appropriate, provides an opportunity for State input to operational plans, policy, regulations, legislation, and budget formulation. Responds to beneficiary, Congressional, provider, and public inquiries concerning Medicaid issues and takes appropriate action on individual case situations. Accepts and responds to Freedom of Information Act requests and on matters concerning the Privacy Act. Supports HCFA headquarters in activities concerning research and demonstration projects.

6. Division of Medicare (FPD(III, VIII)F)

Under the direction of the HCFA Regional Administrator, assures the effective administration of the Medicare program through the day-to-day working relationship with Medicare contractors, providers, physicians, the Social Security Administration (SSA) regional office and district office personnel, elements of the Office of the Inspector General and other organizations and individuals concerned with program operations. Assures continuing surveillance and appraisal of Medicare contractors in the administration of health insurance provisions. Identifies problems and initiates action to ensure contractor adherence to national Medicare policy and procedures. Directs Medicare regional financial management activities. Directs a program of in-depth reviews to evaluate the effectiveness of the Medicare program. Conducts quality assurance programs and onsite performance appraisals and analyzes statistical performance reports. Negotiates and approves contractor budget modifications to budget allotments and final cost settlements. Coordinates day-to-day contractor financial management activities. Reviews and approves certain subcontracts and leases, and monitors banking activities and evaluates the cost allocation procedures of contractors. Conducts contractor appraisals. Interprets HCFA's institutional reimbursement policies. Relates appropriately to elements of SSA, providing consultation on Medicare program matters and any other activity necessary to achieve program objectives. Provides direction to Medicare contractors in carrying out their responsibilities for interfacing with Peer Review Organizations. Establishes and maintains liaison with organizations representing health care professionals, providers of health care services, and program beneficiaries. Takes necessary action on matters relating to the Freedom of Information Act and the Privacy Act. Performs regional responsibilities relating to experimental and demonstration projects. Assumes responsibility for program training and assures timely responses to Congressional and public inquiries. Relates appropriately to central office components such as providing feedback on operations, activities, and problems, and by providing regional perspectives in the development of Agency policies, objectives, and work plans. In coordination with the Division of Medicaid, handles inter-program activities such as the Medicare buy-in for Medicaid beneficiaries.

Bartlett S. Fleming,

Associate Administrator for Management and Support Services.

Date: August 24, 1987.

[FR Doc. 87-21198 Filed 9-14-87; 8:45 am]

BILLING CODE 4120-03-M

Public Health Service

National Toxicology Program; Board of Scientific Counselors Meetings

As part of an effort to earlier inform the public and allow interested parties to comment or obtain information on toxicology and carcinogenesis studies prior to public peer review, the National Toxicology Program (NTP) will announce in the **Federal Register** six to eight weeks in advance a list of the draft Technical Reports to be reviewed at the upcoming meeting of the NTP Board of Scientific Counselors Technical Reports Review Subcommittee and associated *ad hoc* Panel of Experts (*Peer Review Panel*). In the same announcement a tentative listing of Technical Reports will be given for the subsequent meeting of the Peer Review Panel; in this case, February or March 1988 (an exact date has not been established.

Additionally, in a separate issue of the **Federal Register**, the NTP will furnish a listing of draft Technical Reports projected for evaluation by the Peer Review Panel during the period November 1987 through February/March, 1989.

Those interested in having detailed information about any of the studies listed herein or wanting to provide input should contact the responsible NTP staff scientist as early as possible by telephone or by mail to: NIEHS/NTP, P.O. Box 12233, Research Triangle Park, North Carolina 27709. The staff scientists would welcome receiving toxicology and carcinogenesis data from completed, ongoing or planned studies by others as well as current production data, human exposure information, and use and use patterns.

Meeting of November 6, 1987

Pursuant to Pub. L. 92-463, notice is given of the next meeting of the NTP Peer Review Panel on November 6, 1987, in the Conference Center, Building 101, South Campus, National Institute of Environmental Health Sciences, 111 Alexander Drive, Research Triangle Park, North Carolina. The meeting will begin at 9:00 a.m. and is open to the public. The primary agenda topic is to peer review draft Technical Reports of long-term toxicology and carcinogenesis studies from the National Toxicology Program.

Draft technical reports of studies on the following chemicals (listed in alphabetical order with Chemical Abstracts Service registry numbers, routes of administration and NTP staff scientists) are *tentatively* scheduled to be peer reviewed on November 6. All studies were done using Fischer 344 rats and/or $B6C3F_1$ mice. The order of presentation will be made available at a later date.

Chemical (CAS registry No.)	Route of administration	Staff scientist (telephone No.)
Benzyl Alcohol (100-51-6).	Gavage	Dr. M. P. Dieter (919-541-3368).
Iodinated Glycerol (5634-39-9).	Gavage	Dr. J. E. French (919-541-7790).
D-Limonene (5989-27-5).	Gavage	Dr. C. W. Jameson (919-541-4096).
Methyl Dopa Sesquihydrate (41372-08-1).	Feed	Dr. J. K. Dunnick (919-541-4811).
Roxarsone (121-19-7).	Feed	Dr. K. M. Abdo (919-541-7819).
Tetracycline Hydrochloride (64-75-5).	Feed	Dr. D. D. Dietz (919-541-2272).
Tribromomethane (Bromoform) (75-25-2).	Gavage	Dr. R. L. Melnick (919-541-4142).

Persons wanting to make a short presentation regarding a particular Technical Report or concept during the public comment periods should notify the Executive Secretary and provide a written copy in advance of the meeting so copies can be made and distributed to all Panel members, staff and attendees.

Meeting of February/March 1988

Draft technical reports of studies on the following chemicals are tentatively

expected to be peer reviewed in February or March of 1988. All studies were done using Fischer 344 rats and/or B6C3F$_1$ mice.

Chemical (CAS registry No.)	Route of administration	Staff scientist (telephone No.)
p-Chloroaniline (106-47-8).	Gavage	Dr. R. S. Chhabra (919-541-3386).
2,4-Dichlorophenol (120-83-2).	Feed	Dr. R. L. Melnick (919-541-4142).
Dimethoxane (829-00-2).	Gavage	Dr. K. M. Abdo (919-541-7819).
N,N-Dimethylaniline (121-69-7).	Gavage	Dr. K. M. Abdo (919-541-7819).
Diphenhydramine Hydrochloride (147-24-0).	Feed	Dr. R. L. Melnick (919-541-4142).
Ethyl Bromide (74-96-4).	Inhalation	Dr. J. H. Roycroft (919-541-2788).
Ethyl Chloride (75-00-3).	Inhalation	Dr. J. H. Roycroft (919-541-2788).
Furosemide (54-31-9).	Feed	Dr. J. R. Bucher (919-541-4532).
Hexachloroethane (67-72-1).	Gavage	Dr. W. C. Eastin (919-541-7941).
Hydrochlorothiazide (58-93-5).	Feed	Dr. J. R. Bucher (919-541-4532).
8-Methoxypsoralen (298-81-7).	Gavage	Dr. J. K. Dunnick (919-541-4811).
N-Methylolacrylamide (924-42-5).	Gavage	Dr. J. R. Bucher (919-541-4532).
Pentachlorophenol, Dowicide EC-7 and Technical (87-86-5).	Feed	Dr. E. E. McConnell (919-541-3267).

An updated announcement for these scheduled technical reports will appear in the **Federal Register** six to eight weeks prior to the meeting.

The Executive Secretary, Dr. Larry G. Hart, National Toxicology Program, P.O. Box 12233, Research Triangle Park, North Carolina 27709, telephone (919-541-3971), FTS (629-3971), will furnish final agenda, a roster of subcommittee and panel members, and other program information prior to a meeting, and summary minutes subsequent to a meeting.

Date: September 4, 1987.

David P. Rall, M.D.,

Director, National Toxicology Program.

[FR Doc. 87-21176 Filed 9-14-87; 8:45 am]

BILLING CODE 4140-01-M

Statement of Organization, Functions, and Delegations of Authority; Food and Drug Administration

Part H, Chapter HF (Food and Drug Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (35 FR 3685, February 25, 1970, as amended most recently in pertinent part at 50 FR 51606, December 18, 1985) is amended to reflect organizational changes in the Food and Drug Administration (FDA).

FDA is transferring the physical security function from the Division of Ethics and Program Integrity (DEPI) to the Division of Management Services, Office of Management and Operations, Office of the Commissioner. FDA is also establishing a liaison function in DEPI to clarify their existing relationship with the Office of the Inspector General.

Section HF-B, Organization and Functions is amended as follows:

1. Delete subparagraph (h-2), *Division of Management Services (HFA75)* and insert a new subparagraph (h-2), *Division of Management Services (HFA75)* reading as follows:

(h-2) *Division of Management Services (HFA75).* Provides leadership and guidance to Headquarters staff offices, Headquarters operating activities, and field activities for all management services programs including, but not limited to, personal property management and accountability, physical security, real property management, space management and utilization, occupational safety and health management, environmental health, construction, leasing, and engineering services, graphic arts, printing and reproduction, microform management, mail and files.

Develops and conducts management programs in directives management, reports and forms management, records and correspondence management, and other management areas as assigned.

Responsible for maintaining effective liaison with the Government Printing Office and for the centralized clearance and coordination of all printing and publication services.

Coordinates the development of Agencywide policies and procedures for such services; plans, executes, evaluates, and adjusts efforts in these activities.

2. Delete subparagraph (h-7), *Division of Ethics and Program Integrity (HFA72)* and insert a new subparagraph (h-7), *Division of Ethics and Program Integrity (HFA72)* reading as follows:

(h-7) *Division of Ethics and Program Interity (HFA72).* Directs and coordinates a multidiscipline team of administrative and/or program specialists who conduct scheduled reviews of FDA Headquarters and field components to determine adherence to existing managerial policy and practices; assures that recommendations resulting from the review findings are implemented.

Directs FDA's personnel security program and provides professional leadership and authoritative guidance in these areas. Formulates policy and procedures necessary to maintain the integrity of privileged information submitted by industry.

Provides a centralized Agencywide investigative capability for top management.

Implements internal control reviews in accordance with OMB guidelines.

Directs the formulation of FDA policies and procedures concerning conflicts of interest and employee associations with regulated industries, review financial interest including outside activities of FDA employees, decides conflict of interest issues and counsels and train employees on the avoidance of conflicts of interests.

Acts as FDA liaison with the Office of the Inspector General (OIG) regarding audits. Coordinates preparations of FDA responses to OIG audit findings, and monitors implementation of FDA responses.

Date: September 2, 1987.

Wilford J. Forbush,

Director, Office of Management, PHS.

FR Doc. 87-21200 Filed 9-14-87; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY-030-87-5101-09-XKAB]

Assist in Preparation of Environmental Statements; Pacific Power & Light Co.; Scoping Meetings

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of public scoping meetings to assist in preparing an environmental assessment (EA) for a 230-KV transmission line in central and southwestern Wyoming by Pacific Power and Light Company.

SUMMARY: Three public scoping meetings are scheduled to assist in identifying issues or concerns to be addressed during the preparation of an EA analyzing the impacts of building approximately 116 miles of 230-KV transmission line in two separate phases. The first phase is from Spence to Bairoil, Wyoming and is 43 miles long. The second phase is from Bairoil, Wyoming to the Jim Bridger power plant east of Rock Springs, Wyoming, and which is approximately 73 miles long.

DATES: The meetings are as follows:

October 19, 1987—7:00 p.m.
Natrona County Public Library, Crawford Room, 307 East 2nd, Casper, Wyoming

October 20, 1987—7:00 p.m.
White Mountain Library, 2935 Sweetwater Drive, Rock Springs, Wyoming

October 21, 1987—7:00 p.m.
Fremont County Public Library, Carnegie Room, 451 N. 2nd Street, Lander, Wyoming.

FOR FURTHER INFORMATION: For further information contact one of the following BLM Offices:

Rawlins District, 1300 Third Street, P.O. Box 670, Rawlins, WY 82301, (307) 324–7171, Attn: Mary Hanson
Casper District, 1701 East E Street, Casper, WY 82601, (307) 261–5101, Attn: Glen Nebeker
Rock Springs District, P.O. Box 1170, Rock Springs, WY 82902, (307) 362–6422

Written comments should be addressed to the Rawlins District Office. In order for them to be considered in the scope of the EA, they should be received no later than October 30, 1987.

SUPPLEMENTARY INFORMATION: Pacific Power and Light is proposing to build a 230–KV transmission line in two separate phases in south central Wyoming. Counties which could be affected include: Carbon, Natrona, and Sweetwater.

Both sections of transmission line will consist of 2-pole, H-frame wood structures approximately 80 feet in height, 80 feet ruling span, and right-of-way width 100 feet for a 30-year period. Once completed, Phase I will provide a second feed from the Dave Johnson Power Plant to AMOCO's Bairoil Plant. It will also provide various switching and transfer capabilities. Phase II will provide three possible feeds to AMOCO, and reinforce the 230–KV system.

PP&L will prepare the EA for BLM. The EA will analyze the impacts of building the transmission line and operating its switching and transfer capabilities.

When the EA is completed, notice of its availability for review will be published. The public review period will be 30 days. Any comments received during that time will be taken into consideration before a decision is made and a FONSI is prepared.

If during the scoping or preparation of the EA, either significant impacts are identified or significant controversy develops, the document will be converted to and issued as a draft environmental impact statement (EIS) and the process would proceed following normal EIS procedures. This would include a 45 day comment period and the preparation of a final EIS.

Richard Bastin,
District Manager.

[FR Doc. 87–21204 Filed 9–14–87; 8:45 am]
BILLING CODE 4310–22–M

[AZ–040–07–4212–12; A 22977]

Realty Action; Segregation of Federal Mineral Estate, Graham County, AZ

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action; Segregation of Federal mineral estate, Graham County, Arizona.

SUMMARY: The following lands have been examined and identified as potentially suitable for a mineral exchange with the State of Arizona:

Gila and Salt River Meridian, Arizona

T. 7 S., R. 25 E.,
Sec. 24, NW¼NE¼.
Containing 40 acres, more or less.

The surface estate belongs to the State of Arizona and the subsurface belongs to the United States. The land is being considered for a mineral exchange with the Arizona State Land Department.

Publication of this notice in the **Federal Register** segregates the subsurface estate from the operation of the mining laws. The segregative effect will end upon issuance of a patent or two years from the date of the publication, whichever occurs first.

DATE: For a period of up to and including October 30, 1987, interested parties may submit comments to the District Manager at 425 E. 4th Street, Safford, Arizona 85546. Any adverse comments will be evaluated by the State Director, who may sustain, vacate of modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

SUPPLEMENTARY INFORMATION: Detailed information concerning this action may be obtained from the Safford District Office or by calling (602) 428–4040 during the office hours 7:45 a.m. to 4:15 p.m. MST.

Vernon L. Saline,
Acting District Manager.

Date: September 4, 1987.

[FR Doc. 87–21184 Filed 9–14–87; 8:45 am]
BILLING CODE 4310–37–M

National Park Service

National Register of Historic Places; Pending Nominations; Alabama et al.

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before September 5, 1987. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S Department of the Interior, Washington, DC 20243. Written comments should be submitted by September 30, 1987.

Carol D. Shull,
Chief of Registration, National Register.

Alabama

Hale County

Gallion, *Hatch, Alfred, Place at Arcola,* Rt. 1, Hale Co. Rd. #2

Jefferson County

Birmingham, *Reed, William, House,* 888 Twin Lake Dr.

Connecticut

Hartford County

Newington, *Kellogg. General Martin, House,* 679 Willard Ave.

New London County

Ledyard, *Applewood Farm,* 528 Colonel Ledyard Hwy.

District of Columbia

Washington, Brodhead-Bell-Morton Mansion, 1500 Rhode Island Ave., NW.

Indiana

Posey County

Poseyville, *Bozeman-Waters National Bank,* 19 W. Main St.

Randolph County

Union, *Kerry, William, House,* 501 N. Columbia St.

Louisiana

St. Charles County

Kenner and Kugler Cemeteries Archeological District

Massachusetts

Barnstable County

Provincetown, *US Post Office-Provincetown Main,* 217 Commercial St.
Yarmouth, *Northside Historic District,* US 6A between Barnstable-Yarmouth town line & White Brock

Berkshire County

Mt. Washington, *Osborn, Benjamin, House,* West St., E on private Rd.
Tyringham, *Tyringham Shaker Settlement Historic District,* Jerusalem Rd.

Bristol County

Attleboro, *US Post Office-Attleboro Main,* 75 Park St.

Hampden County

Chicopee, *Page, Thomas D., House,* 105 East St.

Middlesex County

Winchester, *US Post Office-Winchester Main*, 48 Waterfield Rd.

Plymouth County

Middleborough, *US Post Office-Middleborough Main*, 90 Center St.

Suffolk County

Boston, *Bunker Hill School*, 65 Baldwin St.

Worcester County

Millbury, *US Post Office-Millbury Main*, 119 Elm St.

New Jersey

Gloucester County

Williamstown, *Free Library and Reading Room-Williamstown Memorial Library*, 405 S. Main St.

Middlesex County

Middlesex, *White, Joseph and Minnie, House*, 243 Hazelwood Ave.

North Carolina

Bladen County

White Oak vicinity, *Desserette*, SW side of SR 1320 near jct. with SR 1318

Wake County

Raleigh, *Oakwood Historic District (Boundary Increase)*, E side of Linden Ave. & N. side of 700 blk. E. Lane St.

North Dakota

Bottineau County

Bottineau & Carbury vicinity, *Crogen, Ole, Farm District*, 4 mi. NW of Bottineau

Dickey County

Oakes, *Klein and Sutmar Block (Oakes MPS)*, 419 Main Ave.
Oakes, *Noonan, Walter T., House (Oakes MPS)* 215 S. Seventh St.
Oakes, *Oakes National Bank Block (Oakes MPS)*, 501 Main Ave.

Foster County

Carrington vicinity, *Hall, Ralph, Farm District*, N of Carrington on W Side of Burlington Northern RR tracks

Griggs County

Cooperstown, *Northern Lights Masonic Lodge*, Ninth St.

McHenry County

Kief, Liberty Baptist Church (Ukrainian Immigration Dwellings and Churches in North Dakota from Early Settlement Until the Depression MPS), Fifth & Christina Sts.

McLean County

Butte vicinity, *Semevolos Farm (Ukrainian Immigrant Dwellings and Churches in North Dakota from Early Settlement Until the Depression MPS)*, SE of Butte

Ransom County

Lisbon, *Bradford Hotel*, 18 Fourth Ave., W.

Tennessee

Maury County

Columbia vicinity, *Kennedy, James, House*, Rogers Ford Rd.

Wisconsin

Milwaukee County

Milwaukee, *Salem Evangelical Church*, 1025 & 1037 S. Eleventh St.

Waukesha County

Mukwonago, *United Unitarian and Universalist Church*, 216 Main St.

[FR Doc. 87-21210 Filed 9-14-87; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Meeting; Advisory Committee on Voluntary Foreign Aid

Pursuant to the Federal Advisory Committee Act, notice is hereby given of a meeting of the Advisory Committee on Voluntary Foreign Aid (ACVFA) on the theme: "PVO Effectiveness at Creating and Maintaining Sustainable Development." This is one of a series of meetings exploring various aspects of "PVO Effectiveness" delineating cases and strategies for enhancing PVOs' work as agents of development. The meeting will be one day: Tuesday, September 22nd from 9:00 a.m. to 5:00 p.m. in Room 1107NS. To enter the building use C Street (Diplomatic Entrance) between 21st and 23rd Streets, NW., Washington, DC.

Tuesday September 22, 1987

The meeting is free and open to the public. However, *Notification by September 18, 1987 Through Advisory Committee Headquarters is required by the Department of State for security reasons.*

9:00 a.m.—Welcoming Remarks: Morgan Williams, ACVFA Chairman
9:30 a.m.—Overview of PVO Sustainability
10:30 a.m.—Panel Discussion on Sustainability, A.I.D. Representative, PVO Representative, LDC Representative
12:00 p.m.—Lunch
2:00 p.m. Panel Discussion based on PVO project evaluations by the International Science and Technology Institute
3:30 p.m.—Committee Discussion of Issues
5:00 p.m.—Adjourn.

There will be A.I.D. representatives at the meeting. Any interested person may attend, request to appear before, or file statements with the Advisory Committee. Written statements should be filed prior to the meeting and should be available in twenty five (25) copies.

Persons wishing to attend the meeting must call (703) 235-1684, or write, no later than September 18, to arrange entrance to the Department of State Building. The address is: The Advisory Committee on Voluntary Foreign Aid, Room 250, SA-8, Agency for International Development, Washington, DC 20523.

Date: September 3, 1987.

Karen Poe,

Acting Director, Office of Private and Voluntary Cooperation, Bureau for Food for Peace and Voluntary Assistance.

[FR Doc. 87-21147 Filed 9-14-87; 8:45 am]

BILLING CODE 6116-01-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 328]

Investigation of Tank Car Allowance System

AGENCY: Interstate Commerce Commission.

ACTION: Notice of postponement of the meeting of the Joint Negotiating Committee (JNC) scheduled for September 14, 1987.

SUMMARY: As published in 52 FR 29449 (August 7, 1987), the JNC was scheduled to reconvene to negotiate changes to the mileage allowance formula, equalization rule, and other related matters in light of the Commission's decision in No. 35404, *General American Transp. Corp. v. Indiana Harbor Belt Railroad Co., et al.* (not printed), served March 12, 1987. This notice is to inform all interested parties that the scheduled September 14, 1987 meeting has been postponed indefinitely.

This action will not significantly affect either the quality of the human environment or energy conservation.

Decided: September 8, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Kathleen M. King,

Acting Secretary.

[FR Doc. 87-21157 Filed 9-14-87; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Pollution Control; Lodging of Consent Decree; B.F. Goodrich Co.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby

given that on August 26, 1987, a proposed consent decree in *United States* v. *B.F. Goodrich Co.*, Civil Action No. C83-0456L(A), was lodged with the United States District Court for the Western District of Kentucky. The complaint filed by the United States alleged violations of the Clean Air Act by defendant due to emissions of vinyl chloride from defendant's polyvinyl chloride plant in Louisville, Kentucky. The consent decree provides for payment of a civil penalty and for injunctive relief to restrain further violations of the Act.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *B.F. Goodrich Co.*, D.J. Ref. No. 90-5-2-1-453. The proposed consent decree may be examined at the office of the United States Attorney, Room 211, U.S. Post Office Building and Courthouse, 601 West Broadway, Louisville, Kentucky, and at the Region IV Office of the Environmental Protection Agency, 345 Courtland St., NE., Atlanta, Georgia. A copy of the consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.20 payable to the Treasurer of the United States.

Roger J. Marzulla,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 87-21148 Filed 9-14-87; 8:45 am]

BILLING CODE 4410-01-M

Pollution Control; Lodging of Consent Decree; Georgia Pacific Corp.

In accordance with departmental policy, 28 CFR 50.7, notice is hereby given that on August 7, 1987 a proposed consent decree in *United States* v. *Georgia-Pacific Corporation*, Civil Action No. PB-C-87-443 was lodged with the United States District Court for the Eastern District of Arkansas. The proposed consent decree concerns a complaint filed by the United States that alleged violations of section 301 of the Clean Water Act, 33 U.S.C. 1311 at Georgia-Pacific Corporation's plywood manufacturing facility in Fordyce, Dallas County, Arkansas. The complaint alleged that Georgia-Pacific discharged pollutants into navigable waters in violation of the limitations in the National Pollutant Discharge Elimination System ("NPDES") permit for the Fordyce facility. The complaint sought injunctive relief to require Georgia-Pacific Corporation to comply with its NPDES permit and civil penalties for past violations. The consent decree requires Georgia-Pacific Corporation to develop and implement an operation and maintenance program to bring the Fordyce facility into compliance with its permit. Georgia-Pacific Corporation is also required to pay a civil penalty of $43,000 in settlement of the government's civil penalty claims.

The Department of Justice will receive for a period of thirty (30) days from the date of the publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Georgia-Pacific Corporation*, D.J. Ref. 90-5-1-1-2663.

The proposed consent decree may be examined at the office of the United States Attorney for the Eastern District of Arkansas, 327 Post Office and Courthouse Building, 600 West Capitol, Little Rock, Arkansas 72203 and at the Region VI office of the United States Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202. Copies of the consent decree may also be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.30 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

Roger J. Marzulla,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 87-21149 Filed 9-14-87; 8:45 am]

BILLING CODE 4410-01-M

Pollution Control; Lodging of Consent Decree; Polychrome Corp.

In accordance with departmental policy, 28 CFR 50.7, notice is hereby given that on August 31, 1987, a proposed consent decree in *United States of America* v. *Polychrome Corporation*, 84 Civ. 4862 (JMC) was lodged with the United States District Court for the Southern District of New York. The complaint filed by the United States sought civil penalties and injunctive relief under the Clean Air Act with respect to emissions of volatile organic compounds ("VOCs") from the lithographic printing plate manufacturing plant operated by Polychrome Corporation in Yonkers, New York.

Under the consent decree, Polychrome has agreed to install equipment to control VOC emissions from coating operations at its plant, to complete a list of specific improvements designed to increase the efficiency of the emission controls, and to pay a civil penalty of $149,000.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Polychrome Corporaton*, D.J. Ref. 90-5-2-1-707.

The proposed consent decree may be examined at the office of the United States Attorney, One St. Andrews Plaza, New York, NY 10278, and at the Region II office of the Environmental Protection Agency, 26 Federal Plaza, New York, NY 10278. A copy of the consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue NW., Washington, DC 20530. Copies of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $2.20 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

Roger J. Marzulla,

Acting Assistant Attorney General, Land & Natural Resources Division.

[FR Doc. 87-21150 Filed 9-14-87; 8:45 am]

BILLING CODE 4410-01-M

[Civil No. A-87-420]

Pollution Control; Lodging of Consent Decree Pursuant to the Clean Water Act; Alaska Gold Co.

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on August 27, 1987, a proposed Consent Decree in *United States* v. *Alaska Gold Company*, Civil No. A-87-420 was lodged with the United States District Court for the District of Alaska. The proposed Consent Decree concerns the prevention of the discharge of pollutants in violation of the Clean Water Act and the limits set forth in Alaska Gold's National Pollutant Discharge Elimination System permit. The proposed Consent Decree requires Alaska Gold to achieve compliance with the Act and its permit and to pay a civil penalty of $100,000.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to Alaska Gold, D.J. Ref. 90-5-1-1-2925.

The proposed Consent Decree may be examined at the office of the United States Attorney, District of Alaska, 701 C Street, Anchorage, Alaska 99513, and at the Region 10 Office of the Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101. Copies of the Consent Decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $1.90 (10 cents per page reproduction cost) made payable to the Treasurer of the United States.

Roger J. Marzulla,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 87-21185 Filed 9-14-87; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Meeting; The Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463 as amended), notice is hereby given of a meeting of the Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, time and place: October 13, 1987, 9:30 a.m., Rm. S4215 A&B Frances Perkins, Department of Labor Building, 200 Constitution Avenue NW., Washington, DC 20210.

Purpose

To discuss trade negotiations and trade policy of the United States.

This meeting will be closed under the authority of section 10(d) of the Federal Advisory Committee Act. The Committee will hear and discuss sensitive and confidential matters concerning U.S. trade negotiations and trade policy.

FOR FURTHER INFORMATION CONTACT: Fernand Lavallee, Executive Secretary, Labor Advisory Committee, Phone: (202) 523-6565.

Signed at Washington, DC, this 8th day of September 1987.

Christopher Hankin,

Acting Deputy Under Secretary, International Affairs.

[FR Doc. 87-21190 Filed 9-14-87; 8:45 am]

BILLING CODE 4510-28-M

Employment and Training Administration

[TA-W-19,615]

Adjustment Assistance; Negative Determination Regarding Application for Reconsideration; Bailey Controls Co., Wickliffe, OH

By an application dated July 22, 1987, the United Auto Workers requested administrative reconsideration of the Department's negative determination on the subject petition for trade adjustment assistance for workers at Bailey Controls Company, Wickliffe, Ohio. The denial notice was signed on July 1, 1987 and published in the **Federal Register** on July 14, 1987 (52 FR 26376).

Pursuant to 29 CFR 98.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The union claims that (1) the Department relied on company-wide sales data instead of plant sales data and that (2) foreign competition in electronic control devices impacted their production of mechanical pneumatic devices. Also, the union states that the Department erred in its negative determination by indicating that the foreign transfer of production from Wickliffe was not significant. The union also claims that since 1973 Bailey Controls has suffered from foreign competition and that all machining operations will be phased out during fiscal 1988.

Bailey Controls Company is a custom engineering shop producing both electronic and mechanical-pneumatic controls.

Investigation findings show that the Department used plant sales and production data of electronic control and mechanical control devices. Sales and production of all control devices increasded in 1986 compared to 1985 and did not decrease in the first quarter of 1987 compared to the same quarter of 1986. Disaggregated data for sales and production of control devices show that plant sales and production of electronic control devices increased while sales and production of mechanical control devices decreased in 1986 compared to 1985. Production and sales data for both types of controls show that they did not decrease in the first quarter of 1987 compared to the same quarter in 1986.

Findings in the investigations do not substantiate that the decline in sales of mechanical controls were the result of foreign competition but were rather the result of a product being replaced by a superior product. Industry sources and company officials both indicate that mechanical pneumatic control devices are being replaced by electronic control devices. The electronic control product is a state-of-the-art electronic microprocessor based control which is substantially more efficient and requires less man-hours to produce. Company officials indicated that orders for electronic control devices are replacing orders for the mechanical control

devices especially in the domestic market and that company domestic sales, in value, of electronic control devices have increased every year. Technological unemployment would not form a basis for certification.

Concerining the transfer of certain production operations from Wickliffe to plants overseas, company officials indicated that such production was insignificant. According to company officials production on only one product was shipped overseas within the past five years and that was on a product discontinued in the U.S. market. The transferred production was marketed overseas. Further, this transfer of production occurred in 1984–1985, beyond the period applicable to the petition. Company officials affirmed that no layoffs occurred as the result of the overseas transfer of production.

With respect to the union's claim about worker separations beginning in 1973 and continuing, section 223(b)(1) of the Trade Act of 1974 does not permit the certification of workers prior to one year of the petition date which in this case is April 27, 1987. Worker separations during the period applicable to the petition are the result of (1) company mandated cost control efforts and (2) the reorganization of the production process brought about by the shift to electronic controls which require less machining and man hours to produce.

The subcontracting of production operations to local shops and to other domestic plants also played a major role in reducing the workforce at Wickliffe. A domestic transfer of production would not form a basis of certification. There were no layoffs from the machine shop at Wickliffe during the period applicable to the subject petition that could be associated with a domestic or overseas transfer of production.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 3rd day of September 1987.

Harold A. Bratt,

Deputy Director, Office of Program Management, UIS.

[FR Doc. 87–21188 Filed 9–14–87; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–19,688]

Adjustment Assistance; Negative Determination Regarding Application for Reconsideration; Whirlpool Corp., St. Joseph Division, St. Joseph, MI

By an application dated August 18, 1987, counsel for local 1918 of the International Association of Machinists (IAM) requested administrative reconsideration of the Department's negative determination on the subject petition for trade adjustment assistance for workers at Whirlpool Corporation's St. Joseph Division, St. Joseph, Michigan. The denial notice was signed on July 7, 1987 and published in the **Federal Register** on July 21, 1987 (52 FR 27479).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If, in the opionion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

Counsel claims that a significant portion of the production previously performed at Whirlpool Corporation was transferred to Canada. It is also claimed that machinery used in the production of washing machine component parts formerly produced at St. Joseph was also transferred to Canada.

Investigation findings show that Whirlpool Corporation's plant in St. Joseph was essentially a component parts plant for washing machines and dryers. The St. Joseph plant supplied component parts to other corporate plants in Ohio and South Carolina. As a result of an important product design change, Whirlpool has completely shifted its production to direct drive washing machines and dryers from the previously produced belt driven models. This technological change makes the new models not only more efficient but they require substantially less parts. Consequently, many of the parts formerly produced at St. Joseph are no longer required. Technological unemployment would not form a basis for certification.

Production on most other parts, e.g. washing machine lids, plastic parts, etc. was transferred to other corporate domestic plants. A domestic transfer of production also would not form a basis for certification.

Whirlpool's affiliate in Canada continues to produce the older belt driven washing machines for the Canadian market. Investigation findings show that less than seven percent of component parts production from St. Joseph was transferred to Canada. Most of this transferred production is integrated into the production of washing machines for the Canadian market. Lost export sales would not form a basis for certification.

Concerning the transfer of machinery to Canada, only increased imports of articles like or directly competitive with the articles produced by the workers' firm or appropriate subdivision can be considered under the Trade Act of 1974. Machinery used in the production of washing machine parts is not like or directly competitive with washing machine parts. This issue was addressed in *United Shoe Workers of America, AFL–CIO* v. *Bedell*, 506, F 2d 174, (D.C. Circ. 1974). The court held that imported finished women's shoes were not like or directly competitive with shoe components—shoe counters. Similarly, machinery for belt driven parts which is further removed from the finished article cannot be considered like or directly competitive with washing machine parts.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 8th day of September 1987.

Harold A. Bratt,

Deputy Director, Office of Program Management, UIS.

[FR Doc. 87–21189 Filed 9–14–87; 8:45 am]

BILLING CODE 4510–30–M

Federal-State Unemployment Compensation Program; Ending of Extended Benefit Period in the State of Alaska

This notice announces the ending of the Extended Benefit Period in the State of Alaska, effective on August 29, 1987.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 *note*) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. Under the

Extended Benefit Program, individuals who have exhausted their rights to regular unemployment benefits (UI) under permanent State (and Federal) unemployment compensation laws may be eligible, during an extended benefit period, to receive up to 13 weeks of extended unemployment benefits, at the same weekly rate of benefits as previously received under the State law. The Federal-State Extended Unemployment Compensation Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

Extended Benefits are payable in a State during an Extended Benefit Period which is triggered "on" when the rate of insured unemployment in the State reaches the State trigger rate set in the Act and the State law. During an Extended Benefit Period, individuals are eligible for a maximum of up to 13 weeks of benefits, but the total of Extended Benefits and regular benefits together may not exceed 39 weeks.

The Act and the State unemployment compensation laws also provide that an Extended Benefit Period in a State will trigger "off" when the rate of insured unemployment in the State is no longer at the trigger rate set in the law. A benefit period actually terminates at the end of the third week after the week for which there is an off indicator, but not less than 13 weeks after the benefit period began.

An Extended Benefit Period commenced in the State of Alaska on December 29, 1985, and has now triggered off.

Determination of an "off" Indicator

The head of the employment security agency of the State named above has determined that the rate of insured unemployment in the State for the period consisting of the week ending on August 8, 1987, and the immediately preceding twelve weeks, fell below the State trigger rate, so that for that week there was an "off" indicator in the State.

Therefore, the Extended Benefit Period in the State terminated with the week ending August 29, 1987.

Information for Claimants

The State employment security agency will furnish a written notice to each individual who is filing claims for Extended Benefits of the ending of the Extended Benefit Period and its effect on the individual's right to Extended Benefits. 20 CFR 615.13(d)(3).

Persons who wish information about their rights to Extended Benefits in the State named above should contact the nearest State employment service office in their locality.

Signed at Washington, DC, on September 4, 1987.

Roger D. Semerad,

Assistant Secretary of Labor.

[FR Doc. 87-21191 Filed 9-14-87; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Privacy Act of 1974; Records Transfer

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of transfer of records subject to the Privacy Act to the National Archives.

SUMMARY: Records retrievable by personal identifiers which are transferred to the National Archives of the United States are exempt from most provisions of the Privacy Act of 1974 (5 U.S.C. 552a) except for publication of a notice in the **Federal Register.** NARA publishes a quarterly notice of the records newly transferred to the National Archives of the United States which were maintained by the originating agency as a system of records subject to the Privacy Act.

DATE: Written comments must be received by October 15, 1987.

ADDRESS: Comments should be sent to Adrienne C. Thomas, Director, Program Policy and Evaluation Division (NAA), National Archives and Records Administration, Washington, DC 20408.

FOR FURTHER INFORMATION CONTACT: Dr. Trudy Peterson, Assistant Archivist for the National Archives, on (202) 523-3130 or (FTS) 523-3130.

SUPPLEMENTARY INFORMATION: In accordance with section (1)(3) of the Privacy Act, archival records transferred from Executive Branch agencies to the National Archives of the United States are not subject to the provisions of the Act relating to access, disclosure, and amendment. The Privacy Act does require that a notice appear in the **Federal Register** when records are transferred to the National Archives of the United States. The records of the United States Congress and all United States Courts are exempt from all provisions of the Privacy Act. Consequently, when records retrievable by personal identifiers are transferred from the Congress or the Courts to the National Archives of the United States, the notice in the **Federal Register** does not include these records.

After transfer of records retrievable by personal identifiers from executive branch agencies to the National Archives of the United States, NARA does not maintain these records as a separate systems of records. NARA will attempt to locate specific records about the individual. Records in the National Archives of the United States may not be amended, and NARA will not consider any requests for amendment.

Archival records maintained by NARA are arranged by Record Group depending on the agency of origin. Within each Record Group, the records are arranged by series, thereunder generally by filing unit, and thereunder by document or groups of documents. The arrangement at the series level or below is generally the one used by the originating agency. Usually, a system of records corresponds to a series, and this notice uses the series title as the title of the system of records.

The following systems of records retrievable by personal identifiers have been transferred to the National Archives:

1. System name:

National Archives Record Group 75, Records of the Bureau of Indian Affairs (Department of the Interior), Fort Totten Indian Agency Records, 1910-1935.

System location:

National Archives-Kansas City Branch, 2312 East Bannister Road, Kansas City, Missouri 64131.

Categories of individuals covered by the system:

Student or potential students at Bureau of Indian Affairs schools (including contract schools), 1910-1935.

Routine uses of records maintained in the system, including categories of users and the purpose of such uses:

Reference by Government officials, scholars, students, and members of the general public. The records in the National Archives of the United States are exempt from the Privacy Act of 1974 except for the public notice required by 5 U.S.C. 552a (l)(3). Further information about uses and restrictions may be found in 41 FR 105-61.53 and in the General Notice published by the National Archives and Records Administration in 40 CFR 45786 (October 2, 1975).

Categories of records in the system:

Student case files, attendance and performance records, banking records and expenditures of tribal benefit funds and applications for grants and grant agreements.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

a. Storage: Paper records stored in boxes.

b. Retrievability: Arranged alphabetically by name of student.

c. Safeguards: Records are kept in locked stack areas accessible only to authorized personnel of the National Archives.

d. Retention and disposal: Records are retained permanently.

System manager and address:

The system manager is the Assistant Archivist for the National Archives, National Archives and Records Administration, 8th and Pennsylvania Avenue NW., Washington, DC 20408.

Notification Procedures:

Individuals desiring information from or about these records should direct inquiries to the system manager.

Records access procedures:

Upon request, the National Archives will attempt to locate specific records about individuals and will make the records available subject to the restrictions set forth in 41 CFR 105–61.53. Enough information must be provided to permit the National Archives to locate the records in a reasonable amount of time. Records in the National Archives may not be amended and requests for amendment will not be considered. More information regarding access procedures is available in the *Guide to the National Archives of the United States,* which is sold by the Superintendent of Public Documents, Government Printing Office, Washington, DC 20402, and may be consulted at the National Archives research facilities listed in 41 CFR 105–61.5101.

2. System name:

National Archives Record Group 75, Records of the Bureau of Indian Affairs (Department of Interior), Pierre Agency Records, 1949–1962.

System location:

National Archives-Kansas City Branch, 2312 East Bannister Road, Kansas City, Missouri 64131.

Categories of individuals covered by the system:

Individual Indians enrolled in Bureau of Indian Affairs (BIA) agencies, students or potential students at BIA schools (including contract schools), 1949–1962.

Routine uses of records maintained in the system, including categories of users and the purpose of such uses:

Reference by Government officials, scholars, students, and members of the general public. The records in the National Archives of the United States are exempt from the Privacy Act of 1974 except for the public notice required by 5 U.S.C. 552a(l)(3). Further information about uses and restrictions may be found in 41 CFR 105–61.53 and in the General Notice published by the National Archives and Records Administration in 40 FR 45786 (October 2, 1975).

Categories of records in the system:

Student case files, attendance and performance records, banking records and expenditures of tribal benefit funds and applications for grants and grant agreements.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

a. Storage. Paper records stored in boxes.

b. Retrievability. Arranged alphabetically by name of student.

c. Safeguards. Records are kept in a locked stack area accessible only to authorized personnel of the National Archives.

d. Retention and disposal. Records are retained permanently.

System manager and address:

The system manager is the Assistant Archivist for the National Archives, National Archives and Records Administration, 8th and Pennsylvania Avenue, NW., Washington, DC 20408.

Notification procedure:

Persons desiring information from or about these records should direct inquiries to the system manager.

Records access procedures:

Upon request, the National Archives will attempt to locate specific records about individuals and will make the records available subject to the restrictions set forth in 41 CFR 105–61.53. Enough information must be provided to permit the National Archives to locate the records in a reasonable amount of time. Records in the National Archives may not be amended and requests for amendment will not be considered. More information regarding access procedures is available in the *Guide to the National Archives of the United States,* which is sold by the Superintendent of Public Documents, Government Printing Office, Washington, DC 20402, and may be consulted at the National Archives research facilities listed in 41 CFR 105.61.5101.

3. System name:

National Archives Record Group 75, Records of the Bureau of Indian Affairs (Department of Interior), Pierre Agency, Indian student records, 1928–1964.

System location:

National Archives-Kansas City Branch, 2312 East Bannister Road, Kansas City, Missouri 64131.

Categories of individuals covered by the system:

Student case files, attendance and performance records, banking records and expenditures of tribal benefit funds and applications for grants and grant agreements, 1928–1964.

Routine uses of records maintained in the system, including categories of users and the purpose of such uses:

Reference by Government officials, scholars, students, and members of the general public. The records in the National Archives of the United States are exempt from the Privacy Act of 1974 except for the public notice required by 5 U.S.C. 552a(l)(3). Further information about uses and restrictions may be found in 41 CFR 105–61.53 and in the General Notice published by the National Archives and Records Administration in 40 FR 45786 (October 2, 1975).

Categories of records in the system:

Student case files, attendance and performance records, banking records and expenditures of tribal benefit funds and applications for grants and grant agreements.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

a. Storage. Paper records stored in boxes.

b. Retrievability. Arranged alphabetically by name of student.

c. Safeguards. Records are kept in a locked stack area accessible only to authorized personnel of the National Archives.

d. Retention and disposal. Records are retained permanently.

System manager and address:

The system manager is the Assistant Archivist for the National Archives, National Archives and Records Administration, 8th and Pennsylvania Avenue NW., Washington, DC 20408.

Notification procedure:

Persons desiring information from or about these records should direct inquiries to the system manager.

Records access procedures:

Upon request, the National Archives will attempt to locate specific records about individuals and will make the records available subject to the restrictions set forth in 41 CFR 105–61.53. Enough information must be provided to permit the National Archives to locate the records in a reasonable amount of time. Records in the National Archives may not be amended and requests for amendment will not be considered. More information regarding access procedures is available in the *Guide to the National Archives of the United States*, which is sold by the Superintendent of Public Documents, Government Printing Office, Washington, DC 20402, and may be consulted at the National Archives research facilities listed in 41 CFR 105–61.53.

Frank G. Burke,

Acting Archivist of the United States.

[FR Doc. 87–21186 Filed 9–14–87; 8:45 am]

BILLING CODE 7515–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts, Literature Advisory Panel (Poetry Fellowships Section) to the National Council on the Arts; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Literature Advisory Panel (Poetry Fellowships Section) to the National Council on the Arts will be held on October 1–2, 1987 from 9:00 a.m.–5:30 p.m. and on October 3, 1987, from 9:00–2:00 p.m. in room 714 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on October 3, 1987 from 12:00 p.m.–2:00 p.m. The topics for discussion will include guidelines and policy issues.

The remaining sessions of this meeting on October 1–2, 1987 from 9:00 a.m.– 5:30 p.m. and on October 3, 1987 from 9:00 a.m.–12:00 p.m. are for the purpose of application review. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington DC 20506, 202/682–5532, TTY 202/682–5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5433.

Yvonne M. Sabine,

Acting Director, Council and Panel Operations, National Endowment for the Arts.

September 8, 1987.

[FR Doc. 87–21151 Filed 9–14–87; 8:45 am]

BILLING CODE 7537–01–M

Meetings: Humanities Panel

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506 telephone 202/786–0322.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidential to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; or (3) information the disclosure of which would significantly frustrate implementation of proposed agency action, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

1. *Date:* September 30, 1987
Time: 8:30 a.m. to 5:30 p.m.
Room 315
Program: This meeting will review applications in the fields of the humanities submitted to the Editions Category of the Texts Program, Division of Research, for projects beginning after April 1, 1988.

2. *Date:* October 5, 1987
Time: 8:30 a.m. to 5:30 p.m.
Room: 315
Program: This meeting will review applications in the fields of the humanities submitted to the Editions Category of the Texts Program, Division of Research, for projects beginning after April 1, 1988.

3. *Date:* October 6, 1987
Time: 8:30 a.m. to 5:30 p.m.
Room: 315
Program: This meeting will review applications in the fields of the humanities submitted to the Editions and Translations Category of the Texts Program, Division of Research, for projects beginning after April 1, 1988.

4. *Date:* October 16, 1987
Time: 8:30 a.m. to 5:30 p.m.
Room: 315
Program: This meeting will review applications in the fields of the humanities submitted to the Translations Category for Texts Program, Division of Research, for projects beginning after April 1, 1988.

5. *Date:* October 19, 1987
Time: 8:30 a.m. to 5:30 p.m.
Room: 315
Program: This meeting will review applications in the fields of the humanities submitted to the Translations Category for Texts Program, Division of Research, for projects beginning after April 1, 1988.

6. *Date:* October 23, 1987
Time: 8:30 a.m. to 5:30 p.m.
Room: 315
Program: This meeting will review applications in the fields of the humanities submitted to the Translations Category, Division of Research Programs, for projects beginning after April 1, 1988.

7. *Date:* October 26, 1987
Time: 8:30 a.m. to 5:30 p.m.
Room: 315
Program: This meeting will review applications in the fields of the

humanities submitted to the Translations Category, of Texts Program, Divsion of Research Programs, for projects beginning after April 1, 1988.

8. *Date:* October 30, 1987
Time: 8:30 a.m. to 5:30 p.m.
Room: 315
Program: This meeting will review applications in the fields of the humanities submitted to the Translations Category of Texts Program, Divsion of Research Programs, for projects beginning after April 1, 1988.

9. *Date:* October 29–30, 1987
Time: 9:00 a.m. to 5:30 p.m.
Room: 430
Program: This meeting will review applications for Humanities Projects in Libraries, submitted to the Division of General Programs, for projects beginning after September 1987.

Susan H. Metts,

Assistant Chairman for Administration.

[FR Doc. 87–21181 Filed 9–14–87; 8:45 am]

BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

Draft Regulatory Guide; Issuance, Availability

The Nuclear Regulatory commission has issued for public comment a draft of a new guide planned for its Regulatory Guide Series together with a draft of the associated value/impact statement and regulatory analysis. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the Commission's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, EE 006–5 (which should be mentioned in all correspondence concerning this draft guide) is entitled "Qualification of Safety-Related Lead Storage Batteries for Nuclear Power Plants" and is intended for Division 1. The guide is being developed to describe a method acceptable to the NRC staff for complying with Commission regulations on the qualification of safety-related lead storage batteries for nuclear power plants. This guide endorses IEEE Std 535–1986, "IEEE Standard for Qualification of Class 1E Lead Storage Batteries for Nuclear Power Generating Stations."

This draft guide and the associated value/impact statement and regulatory analysis are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on the guide (including any implementation schedule), the draft value/impact statement, and the regulatory analysis. Comments should be accompanied by supporting data. Written comments may be submitted to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration and Resources management, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Comments may also be delivered to Room 4000, Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland from 8:15 a.m. to 5:00 p.m. Copies of comments received may be examined at the NRC Public Document Room, 1717 H Street NW., Washington, DC. Comments will be most helpful if received by November 20, 1987.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Information Support Services. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 4th day of September 1987.

For the Nuclear Regulatory Commission.

Robert J. Bosnak,

Deputy Director, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 87–21206 Filed 9–14–87; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-24891; File No. SR-OCC-87-15]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by Options Clearing Corp.

The Options Clearing Corporation ("OCC") on July 22, 1987, filed a proposed rule change with the Commission under section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"). The Commission is publishing the notice to solicit comment on the proposed rule change. The proposal would authorize a new clearing system, the International Clearing System ("ICS"), designed to accommodate trading of OCC-cleared products worldwide on a 24 hour basis.[1]

I. Description of the Proposal

The proposal would modify Article VI (Clearance of Exchange Transactions) of OCC's By-Laws by adding a new Section 22 that would govern the classes of options to be cleared through ICS. This new provision would authorize separate reporting for classes of options cleared through ICS.

OCC states that under ICS, as it will be implemented initially: (1) Position, exercise, and assignment information will be processed beginning at 3:30 p.m. EST; (2) the deadline for notices will be changed from 8:00 p.m. to 3:30 p.m. EST; (3) daily position reports and exercise and assignment activity reports will be distributed by 6:30 p.m. EST; and (4) notification of assignments will be distributed between 6:00 p.m. and 6:30 p.m. EST. OCC states that generally, transactions that occur in trading sessions conducted after 4:00 p.m. EST will be deemed to have been effected on the following day.

OCC specifies that under ICS: (1) The acceptance of late filings of option exercise notices would be a matter of OCC's discretion; and (2) due to the reduced processing time available in ICS, OCC would not apply the fee

[1] This ICS proposal relates to the rule change recently submitted by the Philadelphia Stock Exchange, Inc. ("PHLX") to extend trading hours for foreign currency options. *See* File No. SR-PHLX-87-17, approved as Securities Exchange Act Rel. No. 24652 (June 29, 1987), 52 FR 25680. As of Thursday, September 17, 1987, PHLX plans to add an evening trading session that will begin at 7:00 p.m. and end at 11:00 p.m. Eastern Standard Time ("EST"), Sundays through Thursdays.

OCC has submitted this filing to accommodate the new PHLX evening session. Moreover, OCC states that the PHLX evening session is the start of what will become a 24 hour trading day.

schedule for late filing of option exercise notices, as set forth in OCC Rule 801(e), to option contracts cleared through ICS.[2]

OCC states that, as a related change, the proposal would modify Policy and Interpretation ("Interpretation") .01 of OCC By-Laws Article VI, Section 1. This change would recognize the fact that if an account contains positions in foreign currency options cleared through ICS, correspondent clearing corporations may not be able to effect automatic account transfers/through the Automated Customer Accounts Transfer System ("ACATS") prior to 3:30 p.m. EST.[3] Accordingly, the new Interpretation would provide that an account transfer could be handled "manually," as it would have been before the introduction of ACATS. Additionally, the proposal contains certain conforming changes, including a definition of "ICS" and a modified definition of "trade date" that would be added to Article I of OCC's By-Laws.

OCC emphasizes that many of its basic operations, including daily premium and margin settlement and the exercise settlement process, would be unaffected by the change to ICS. These activities would continue to be conducted at the same time and in the same manner as conducted currently. OCC further states that ICS will be essentially the same as OCC's existing system for clearing non-equity options except that the trade processing and clearing functions will be compressed into the period between 4:00 p.m. and 7:00 p.m. EST.

II. OCC's Rationale for the Proposal

OCC states that the increasing internationalization of the securities markets has caused extended trading hours due to: (1) The trading of the same security in two or more markets located in different time zones, and (2) extended trading hours in domestic markets that are intended to coincide with business hours in foreign markets. OCC believes that eventually some OCC-cleared products will be traded somewhere in the world twenty-four hours a day. To accommodate these expected trading hours, OCC has designed ICS, a new clearing system for a trading day that begins at about 7:00 p.m. Eastern Time, and which would continue until as late as 4:00 p.m. on the following business day.

OCC states that the proposed rule change is consistent with the purposes and requirements of section 17A of the Act because it will further the prompt and accurate clearance and settlement of options transactions, including transactions that are effected in United States and foreign markets and at times that are outside the usual business hours of the United States.

III. Request for Comments

The rule change has become effective pursuant to section 19(b)(3)(A) of the Act and Rule 19b–4. The Commission may summarily abrogate the rule change at any time within 60 days of its filing if it appears to the Commission that abrogation is necessary or appropriate in the public interest, for the protecton of investors, or otherwise in furtherance of the purposes of the Act.

You may submit written comment within 21 days after this notice is published in the **Federal Register**. Please file six copies of your comment with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, with accompanying exhibits, and all written comments, except for material that may be withheld from the public under 5 U.S.C. 552, are available at the Commission's Public Reference Room, 450 Fifth Street NW., Washington, DC. Copies of the filing also will be available for inspection and copying at the principal office of OCC. All submissions should refer to File No. SR–OCC–87–15 and should be submitted by October 6, 1987.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: September 9, 1987.

[FR Doc. 87–21177 Filed 9–14–87; 8:45 am]

BILLING CODE 8010–01–M

[2] For background on OCC's filing deadline for option exercise notices and its schedule of late fees, *see* File No. SR–OCC–86–19, approved in Securities Exchange Act Rel. No. 24431 (May 16, 1987), 52 FR 17874.

[3] For background in ACATS, *see* File No. SR–OCC–86–26, which was noticed as immediately effective in Securities Exchange Act Rel. No. 24133 (February 24, 1987), 52 FR 6147.

DEPARTMENT OF STATE

Director General of the Foreign Service and Director of Personnel

[Public Notice 1026]

State Department Performance Review Board Members

In accordance with section 4314(c)(4) of the Civil Service Reform Act of 1978 (Pub. L. 95–454), the Executive Resources Board of the Department of State has appointed the following members to the State Department Performance Review Board Register and in so doing amends accordingly Department of State Public Notice No. 924 (December 7, 1984) effective December 3, 1984.

Jack Jenkins, Executive Director, Bureau of Administration

Richard A. Clarke, Deputy Assistant Secretary for Regional Analysis, Bureau of Intelligence and Research

Elizabeth G. Verville, Deputy Legal Advisor, Office of the Legal Advisor

Frederick A. McGoldrick, Director, Office of Nuclear Non-Proliferation and Export Policy, Bureau of Oceans and International Environmental and Scientific Affairs

Elaine B. Jenkins, One America, Inc., 1109 Spring Street, Silver Spring, MD 20910.

Date: September 4, 1987.

George S. Vest,

Director General of the Foreign Service and Director of Personnel.

[FR Doc. 87–21152 Filed 9–14–87; 8:45 am]

BILLING CODE 4710–15–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Order 87–9–21]

Aviation Proceedings; Fitness Determination; Chester County Aviation, Inc. d/b/a Chester County Air

AGENCY: Department of Transportation.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 87–9–21, order to show cause.

SUMMARY: The Department of Transportation is proposing to find Chester County Aviation, Inc. d/b/a Chester County Air fit, willing, and able to provide commuter air service under section 419(c)(2) of the Federal Aviation Act.

Responses: All interested persons wishing to respond to the Department of Transportation's tentative fitness determination should file their responses with the Air Carrier Fitness Division, P–56, Department of Transportation, 400 Seventh Street SW., Room 6420, Washington, DC 20590, and serve them on all persons listed in Attachment A to the order. Responses shall be filed no later than September 25, 1987.

FOR FURTHER INFORMATION CONTACT: Ms. Janet A. Davis, Air Carrier Fitness Division (P–56, Room 6420), U.S. Department of Transportation, 400

Seventh Street SW., Washington, DC 20590, (202) 366-2341.

Dated: September 10, 1987.

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 87-21213 Filed 9-14-87; 8:45 am]

BILLING CODE 4910-62-M

Federal Highway Administration

Environmental Impact Statement; Tulsa County, OK

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Tulsa County, Oklahoma.

FOR FURTHER INFORMATION CONTACT: Frank N. Cunningham, Assistant Division Administrator, Federal Highway Administration, 200 NW. Fifth Street, Room 454, Oklahoma City, Oklahoma 73102, Telephone: (405) 231-4725.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Oklahoma Department of Transportation (ODOT), will prepare an environmental impact statement (EIS) on a proposal to improve Interstate Route 44 in Tulsa. The proposed improvement would involve the addition of two lanes to the existing four-lane divided facility from the Arkansas River bridge/Riverside Drive interchange eastward approximately four miles to the west edge of the Broken Arrow Expressway interchange. Improvements to this segment of Interstate 44 are considered necessary to provide for the existing and projected traffic demand as well as to enhance safety.

Two alternatives are under consideration: Taking no action and adding two lanes to the existing facility to create a six-lane divided freeway.

Letters describing the proposed action and soliciting comments have previously been sent to appropriate Federal, State and local agencies during the Environmental Assessment stage of environmental processing.

A public hearing will be held. Public notice will be given of the time and place of the hearing. The draft EIS will be available for public and agency review and comment.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on: September 8, 1987.

Frank N. Cunningham,

Assistant Division Administrator, Oklahoma City, OK.

[FR Doc. 87-21153 Filed 9-14-87; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement; Dane County, WI

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for a proposed highway improvement in Dane County, Wisconsin.

FOR FURTHER INFORMATION CONTACT: Ms. Jaclyn Lawton, Environmental Coordinator, Federal Highway Administration, 4502 Vernon Boulevard, Madison, Wisconsin 53705-4905. Telephone (608) 264-5967.

SUPPLEMENTARY INFORMATION: An EIS will be prepared in cooperation with the Wisconsin Department of Transportation for transportation improvements to State Highway US 18/51 in Dane County, Wisconsin. The U.S. Army Corp of Engineers has been requested to serve as a cooperating agency for the EIS.

The proposed project consists of a 4-lane improvement around or through the City of Verona. The project begins at approximately County Trunk Highway (CTH) G and US 18/151 intersection and proceeds easterly to the CTH PD and US 18/151 intersection.

Planning, environmental, and location engineering studies are underway to develop transportation improvement alternatives including: (1) The no-build alternative, (2) reconstruction of the existing roadway through the City of Verona, and (3) a bypass to the north or south of the City of Verona.

Existing US 18/151 is a 2-lane facility as it passes through the City of Verona. The highway is functionally classified as a principal arterial and is on the Federal designated truck network. Environmental activities are in progress for a proposed 4-lane roadway improvement west of the City of Verona. Four lanes already exist east of the City. Continuation of a 4-lane section will be important to maintaining highway safety, accommodating traffic, and assisting local governments in their land-use planning. Agency coordination and scoping activities will involve agencies that are identified as having an interest in or jurisdiction by law regarding the proposed action. Agencies will be notified by mail of the date of the formal scoping meeting.

In addition, coordination will continue with local units of government, private interest groups, and local citizens, including public meetings and a formal public hearing.

To ensure that a full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Issued on: September 3, 1987.

Frank M. Mayer,

Division Administrator, Federal Highway Administration, Madison, Wisconsin.

[FR Doc. 87-21187 Filed 9-14-87; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: September 8, 1987.

The Department of Treasury has made revisions and resubmitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 2224, Main Treasury Building, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0068
Form Number: IRS Form 2441
Type of Review: Resubmission
Title: Credit for Child and Dependent Care Expenses

Description: Internal Revenue Code (IRC) section 21 allows credit for certain

child and dependent care expenses to be claimed on Form 1040. The information on Form 2441 is used to help verify that the credit is properly figured.

Respondents: Individuals or households
Estimated Burden: 1,115,956

Clearance Officer: Garrick Shear, (202) 566–6150, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports, Management Officer.
[FR Doc. 87–21119 Filed 9–14–87; 8:45 am]
BILLING CODE 4810–25–M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 178
Tuesday, September 15, 1987

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Wednesday, September 16, 1987, see times below.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Md.

STATUS:

MATTERS TO BE CONSIDERED:

9:30 a.m.

Closed to the Public

1. Compliance Update

The staff will brief the Commission on the status of certain compliance matters.

10:30 a.m.

Open to the Public

2. Lawn Darts: Options

The staff will brief the Commission on options relating to the hazards of lawn darts.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301–492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 301–492–6800.

Sheldon D. Butts,

Deputy Secretary.

September 11, 1987.

[FR Doc. 87–21359 Filed 9–11–87; 4:01 pm]

BILLING CODE 6355–01–M

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, September 17, 1987.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Md.

STATUS: Closed to the Public.

MATTERS TO BE CONSIDERED:

1. Enforcement Matter OS #5497

The staff will brief the Commission on Enforcement Matter OS #5497.

2. Enforcement Matter OS #5364

The staff will brief the Commission on Enforcement Matter OS #5364.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301–492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 301–492–6800.

Sheldon D. Butts,

Deputy Secretary.

September 11, 1987.

[FR Doc. 87–21360 Filed 9–11–87; 4:01 pm]

BILLING CODE 6355–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:33 p.m. on Wednesday, September 9, 1987, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider: (1) Matters relating to the possible failure of certain insured banks; and (2) a request for financial assistance, pursuant to section 13(c) of the Federal Deposit Insurance Act.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: September 10, 1987.

Federal Deposit Insurance Corporation.

Margaret M. Olsen,

Deputy Executive Secretary.

[FR Doc. 87–21325 Filed 9–11–87; 2:07 pm]

BILLING CODE 6714–01–M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

September 10, 1987.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Sent to Federal Register on September 2, 1987.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:00 a.m., September 10, 1987.

CHANGES IN THE MEETING: The meeting previously announced for this time and date has been cancelled. No earlier announcement of this cancellation was possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5629.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 87–21315 Filed 9–11–87; 2:06 pm]

BILLING CODE 6735–01–M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 10:00 a.m., Friday, September 18, 1987.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Date: September 10, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87–21203 Filed 9–10–87; 4:42 pm]

BILLING CODE 6210–01–M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 12:00 Noon, Monday, September 21, 1987.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Preliminary consideration of testimony on banking issues.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Date: September 11, 1987.

James McAffee,

Associate Secretary of the Board.

[FR Doc. 87–21349 Filed 9–11–87; 3:50 pm]

BILLING CODE 6210–01–M

MERIT SYSTEMS PROTECTION BOARD

TIME AND DATE: 10:00 a.m., Wednesday, September 23, 1987.

PLACE: Eighth Floor, 1120 Vermont Avenue NW., Washington, DC.

STATUS: Open.

MATTER TO BE CONSIDERED: *Marren v. Department of Justice*, DA075285C9010; to hear the agency's response to the Board's order dated August 24, 1987, directing certain officials of the agency to "show cause why their salaries should not be withheld in accordance with the authority described at 5 U.S.C. 1205(d)(2) for the period of noncompliance" with the Board's back pay order in this case.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Robert E. Taylor, Clerk of the Board, (202) 653–7200.

Date: September 11, 1987.

Robert E. Taylor,

Clerk of the Board.

[FR Doc. 87–21343 Filed 9–11–87; 3:34 pm]

BILLING CODE 7400–01–M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of September 14, 21, 28, and October 5, 1987.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, DC.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of September 14

Monday, September 14

10:00 a.m.
Discussion of Pending Investigations (Closed—Ex. 5 & 7)
10:30 a.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6)
2:00 p.m.
Briefing on the Status of Peach Bottom (Public Meeting)

Thursday, September 17

10:00 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of September 21—Tentative

Wednesday, September 23

2:00 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of September 28—Tentative

Thursday, October 1

10:00 a.m.
Discussion of Pending Investigations (Closed—Ex. 5 & 7)
2:00 p.m.
Briefing on Technical Specifications Improvement Project (Public Meeting)
3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of October 5—Tentative

Tuesday, October 6

2:00 p.m.
Briefing on Transportation and the Modal Study (Public Meeting)

Thursday, October 8

10:00 a.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6)
3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

ADDITIONAL INFORMATION: Affirmation of "Licensing Board Decision in *Radiology Ultrasound Nuclear Consultants, P.A.*" (Public Meeting) was held on September 10.

Note.—Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING)—(202) 634–1498.

CONTACT PERSON FOR MORE INFORMATION: Robert McOsker, (202) 634–1410.

Robert B. McOsker,

Office of the Secretary.

September 10, 1987.

[FR Doc. 87–21348 Filed 9–11–87; 3:38 pm]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [52 FR 33901 September 8, 1987].

STATUS: Closed meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Monday, August 31, 1987.

CHANGE IN THE MEETING: Additional meeting.

The following items were considered at a closed meeting on Thursday, September 10, 1987, following the 10:00 a.m. open meeting.

Regulatory matter regarding financial institution.
Settlement of litigation matter.

Commissioner Cox, as duty officer, determined that Commission business required the above change.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Jacqueline Higgs at (202) 272–2149.

Jonathan G. Katz,

Secretary.

September 11, 1987.

[FR Doc. 87–21356 Filed 9–11–87; 3:55 pm]

BILLING CODE 8010–01–M

Corrections

Federal Register
Vol. 52, No. 178
Tuesday, September 15, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF DEFENSE

Office of the Secretary

48 CFR Part 208

Federal Acquisition Regulation Supplement; Federal Supply Schedules

Correction

In rule document 87-20309 beginning on page 33411 in the issue of Thursday, September 3, 1987, make the following correction:

On page 33412, in the table, in the ninth entry, in the first column, "02/01/88" should read "02/01/89".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 87C-0253]

Filing of Color Additive Petition; CooperVision, Inc.

Correction

In notice document 87-20013 beginning on page 32965 in the issue of Tuesday, September 1, 1987, make the following correction:

On page 32965, under **FOR FURTHER INFORMATION CONTACT**, in the fourth and fifth lines, the telephone number should read "202-472-5690".

BILLING CODE 1505-01-D

federal register

Tuesday
September 15, 1987

Part II

Environmental Protection Agency

40 CFR Part 60

Standards of Performance for New Stationary Sources; Rubber Tire Manufacturing Industry; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-3211-3]

Standards of Performance for New Stationary Sources; Rubber Tire Manufacturing Industry

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Standards of performance for the rubber tire manufacturing industry were proposed in the **Federal Register** on January 20, 1983 (48 FR 2676). This action promulgates standards of performance for the rubber tire manufacturing industry. These standards implement section 111 of the Clean Air Act and are based on the Administrator's determination that the synthetic rubber industry causes, or contributes significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare. The intended effect of these standards is to require new, modified, and reconstructed facilities at rubber tire manufacturing plants to reduce emissions to the level achievable by the best demonstrated system of continuous emission reduction, considering costs, nonair quality health, and environmental and energy impacts.

EFFECTIVE DATE: September 15, 1987.

Under section 307(b)(1) of the Clean Air Act, judicial review of this new source performance standard is available *only* by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this rule. Under section 307(b)(2) of the Clean Air Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by the EPA to enforce these requirements.

ADDRESSES: *Background Information Document.* The background information document (BID) for the promulgated standards may be obtained from the U.S. EPA Library (MD–35), Research Triangle Park, North Carolina 27711, telephone number (919) 541–2777. Please refer to "Rubber Tire Manufacturing Industry—Background for Promulgated Standards," EPA–450/3–81–008b. The promulgation BID contains: (1) A summary of all public comments made on the proposed standards and the Administrator's response to the comments, (2) summary of the changes made to the standards since proposal, and (3) the final environmental impact statement which summarizes the impacts of the standards.

Docket. A docket, number A–80–9, containing information considered by the EPA in development of the promulgated standards, is available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday, at the EPA's Central Docket Section, South Conference Center, Room 4, 401 M Street, SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: For further information and official interpretations of applicability, compliance requirements, and reporting aspects of the promulgated standard, contact the appropriate Regional, State, or local office contact as listed in 40 CFR 60.4. For further information on the background of the regulatory decisions in the promulgated standard, contact Ms. Dianne Byrne, Standards Development Branch, Emission Standards and Engineering Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 2711, telephone (919) 541–5266. For further information on the technical aspects of the promulgated standards, contact Mr. Dave Salman, Chemicals and Petroleum Branch, Emission Standards and Engineering Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541–5417.

SUPPLEMENTARY INFORMATION:

Summary of Standards

Standards of performance for new sources established under section 111 of the Clean Air Act reflect:

> * * * application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated [section 111(a)(1)].

For convenience, this will be referred to as "best demonstrated technology" or "BDT."

The standards limit volatile organic compounds (VOC) emissions from new, modified, and reconstructed facilities. VOC emissions from the rubber tire industry are caused by solvent application to different components of a tire during the manufacturing process. The affected facilities are each undertread cementing operation, each sidewall cementing operation, each tread end cementing operation, each bead cementing operation, each green tire spraying operation, each Michelin-A operation, each Michelin-B operation, and each Michelin-C-automatic operation.

Facilities affected by these standards are those where components for agricultural, airplane, industrial, mobile home, light-duty truck or passenger vehicle tires which have a bead diameter up to and including 0.5 meter (m) [19.7 inches (in)] and cross section dimension up to and including 0.325 m (12.8 in) are mass produced in assembly-line fashion.

The standards for each undertread cementing operation, each sidewall cementing operation, each green tire spraying operation where organic solvent-based sprays are used, and each Michelin-B operation require at least 75 percent emission reduction. The standards require 65 percent emission reduction for each Michelin-A operation and each Michelin-C-automatic operation. The standards require that emissions be limited to 10 grams of VOC per tire (g/tire) for each tread end cementing operation, 5 grams of VOC per bead (g/bead) for each bead cementing operation, 1.2 g/tire for a water-based inside green tire spray application, and 9.3 g/tire for a water-based outside green tire spray application.

Total (uncontrolled) monthly VOC use cutoffs (kg/mo limits) have been provided for undertread cementing operations, sidewall cementing operations, green tire spraying operations where organic solvent-based sprays are used, Michelin-A operations, Michelin-B operations, and Michelin-C-automatic operations. Where monthly VOC use at one of these affected facilities is less than or equal to the applicable cutoff, that affected facility is exempt from the prescribed percent emission reduction requirements. The monthly VOC use cutoffs vary according to the number of days in a monthly compliance period. For each undertread cementing operation, the VOC use cutoffs at or below which 75 percent emission reduction is not required are as follows:

Number of days	VOC use limit
28	3,870 kilograms (kg)
29	4,010 kg
30	4,150 kg
31	4,280 kg
35	4,840 kg (for 5-week production months only).

The monthly VOC use cutoffs for each sidewall cementing operation and each green tire spraying operation where organic solvent-based sprays are used,

at or below which 75 percent emission reduction is not required, are as follows:

Number of days	VOC use limit
28	3,220 kg
29	3,340 kg
30	3,450 kg
31	3,570 kg
35	4,030 kg (for 5-week production months only).

The monthly VOC use cutoffs for each Michelin-B operation, at or below which 75 percent emission reduction is not required, are as follows:

Number of days	VOC use limit
28	1,310 kg
29	1,360 kg
30	1,400 kg
31	1,450 kg
35	1,640 kg (for 5-week production months only).

The monthly VOC use cutoffs for each Michelin-A operation and each Michelin-C-automatic operation, at or below which 65 percent emission reduction is not required, are as follows:

Number of days	VOC use limit
28	1,570 kg
29	1,630 kg
30	1,690 kg
31	1,740 kg
35	1,970 kg (for 5-week production months only).

The standards also provide an alternative means of compliance with the 75 percent emission reduction requirements. This option, available for undertread cementing operations, sidewall cementing operations, green tire spraying operations where organic solvent-based sprays are used, and Michelin-B operations, requires the owner or operator to demonstrate that the affected facility meets the following equipment and operating parameters:

(1) Captured emissions vented to a 95 percent efficient control device;

(2) An enclosure around the cement or spray application and drying areas;

(3) For undertread cementing operations, sidewall cementing operations, and Michelin-B operations, enclosure of the drying area to contain components for a minimum of 30 seconds after cement application;

(4) For green tire spraying operations where organic solvent-based sprays are used, enclosure of tires for a minimum of 30 seconds after spraying;

(5) A minimum 100 feet per minute (fpm) face velocity through each permanent opening to the enclosure; and

(6) The total area of all permanent openings into the enclosure shall not exceed the area necessary to maintain the VOC concentration in the exhaust gas at 25 percent of the lower explosive limit (LEL) while the facility is operating at maximum solvent use rate, a 100 fpm face velocity is maintained through all permanent openings, and all temporary openings are closed.

Separate testing, monitoring, recordkeeping, and reporting requirements are included for each combination of standard format (g/tire, g/bead, kg/mo, or percent emission reduction), control technique (low solvent use or emission reduction system), and compliance method (performance tests or equipment specifications). Initial performance tests are required for each affected facility.

Monthly performance tests are required to determine compliance with each of the g/tire limits (tread end cementing and water-based green tire spraying); the g/bead limit; and each of the kg/mo VOC use limits (undertread cementing, sidewall cementing, organic solvent-based green tire spraying, Michelin-A, Michelin-B, and Michelin-C-automatic). Whether or not monthly performance tests are required to determine compliance with the percent emission reduction standards depends primarily on the type of control device used, and then on the method of demonstrating compliance.

The standards require continuous monitoring and recording of thermal incinerator combustion temperature and of the temperature before and after the catalyst bed for catalytic incinerators. If a carbon adsorber is used as a VOC recovery system, then the standards require the continuous monitoring and recording of the organics concentration level of the carbon bed exhaust. The standards require that the owner or operator maintain at the source for a period of at least 2 years records of all data and calculations used to determine VOC emissions for each affected facility.

The standards require the owner or operator to meet all notification and reporting requirements specified in Subpart A of 40 CFR Part 60. Each owner or operator of an affected facility must declare the monthly schedule (each calendar month or a 4–4–5–week schedule) to be used in making compliance determinations. In addition, each owner or operator of an affected undertread cementing, sidewall cementing, green tire spraying (using organic solvent-based sprays), Michelin-A, Michelin-B, or Michelin-C-automatic facility must declare which standard will be met (percent emission reduction or kg/mo VOC use) or whether compliance will be demonstrated by meeting the optional equipment specifications (not applicable for Michelin-A or Michelin-C-automatic facilities). These declarations must be made in writing to the Administrator at the time of notification of anticipated startup as required in 40 CFR 60.7(b). Where monitoring of operating parameters is required, the owner or operator must report semiannually when monitored parameters are not within acceptable limits.

Method 24 of Appendix A to Part 60 or formulation data will be used to determine the VOC content of cements and green tire spray materials, and Method 25 will be used to determine the concentration of VOC in exhaust gas streams.

Summary of Environmental, Energy, and Economic Impacts

The incremental impacts in the background information document (BID) for the proposed standards, "Rubber Tire Manufacturing Industry—Background Information for Proposed Standards, "EPA–450/3–81–008a, were determined using the levels of emission reduction recommended in the control technique guidelines (CTG) document, "Control of Volatile Organic Compound Emissions from Manufacture of Pneumatic Rubber Tires," EPA–450/2–78–030, as the regulatory baseline. The CTG recommends an average overall emission reduction of about 70 percent from undertread cementing, tread end cementing, bead cementing, and green tire spraying operations. Sidewall cementing was not addressed in the CTG.

In establishing the baseline for the proposed standards, capture and control technology was assumed to be used for undertread cementing operations, tread end cementing operations, bead cementing operations, and green tire spraying operations where organic solvent-based sprays are used. However, many States where rubber tire manufacturing plants are located have adopted regulations in their State implementation plans (SIP's) that can be met without installing capture and control equipment at tread end cementing and bead cementing operations. The EPA believes that this emission reduction scenario is a more representative regulatory baseline for calculating the impacts of the new source performance standards (NSPS) and, therefore, has revised the emission reduction and cost calculations for the baseline.

Compared to the revised baseline, the standards will reduce nationwide emissions from newly constructed, modified, and reconstructed facilities by

1,710 megagrams (1,885 tons) in the fifth year after proposal. This represents a 46 percent reduction in emissions beyond the baseline. For a single medium-sized plant, the emission reduction compared to the baseline is about 367 megagrams (405 tons) per year. The standards will not result in an increase of water pollution, solid waste, or energy consumption.

Control costs calculated for the regulatory baseline assume that: (1) A separate capture and control system will be employed at each undertread cementing operation to reduce emissions; (2) 54 percent of the green tire spraying operations will use only water-based sprays and therefore incur no control system costs; and (3) 46 percent of the green tire spraying operations will use some organic solvent-based sprays and will utilize capture and control technology to reduce emissions. Control costs calculated for the NSPS assume that: (1) A separate capture and control system will be employed at each undertread cementing operation and each sidewall cementing operation; (2) good work practices will be used to minimize emissions at each tread end cementing operation and each bead cementing operation; (3) 54 percent of the green tire spraying operations will use only water-based sprays and therefore incur no control system costs; and (4) 46 percent of the green tire spraying operations will use some organic solvent-based sprays and will utilize capture and control technology to reduce emissions.

Compared to the regulatory baseline, total nationwide capital costs will increase by about $6.1 million during the first 5 years after proposal. The total nationwide annualized cost in the fifth year will increase by about $1.1 million. For a single medium-size plant, the fifth year annualized cost attributable to NSPS, including solvent recovery credits, will be about $114,000. The average incremental cost effectiveness for the industry compared to the baseline is $615 per megagram. For a medium-sized plant, the cost effectiveness compared to the baseline is $315 per megagram. The nationwide costs represent single-line retrofits, and the medium-sized plant costs represent a new plant using one capture/control system for all like operations. No changes in price or reductions in return on investment (ROI) are projected compared to the baseline control level. Implementation of the standards is not expected to inhibit industry growth.

The environmental, energy, and economic impacts are discussed in greater detail in the promulgation BID, "Rubber Tire Manufacturing Industry—Background for Promulgated Standards," EPA–450/3–81–008b.

Public Participation

Before proposal of the standards, interested parties were advised by public notice in the **Federal Register** (45 FR 73133, November 4, 1980) of a meeting of the National Air Pollution Control Techniques Advisory Committee to discuss the standards recommended for proposal. The meeting was held December 2–3, 1980. The meeting was open to the public and each attendee was given an opportunity to comment on the standards recommended for proposal. The standards were proposed in the **Federal Register** on January 20, 1983 (48 FR 2676). The preamble to the proposed standards discussed the availability of the proposal BID, "Rubber Tire Manufacturing Industry—Background Information for Proposed Standards," EPA–450/3–81–008a, which described in detail the regulatory alternatives considered and the impacts of those alternatives. Public comments were solicited at the time of proposal and, when requested, copies of the proposal BID were distributed to interested parties. To provide interested persons the opportunity for oral presentation of data, views, or arguments concerning the proposed standards, a public hearing was held on March 3, 1983, at Research Triangle Park, North Carolina. The hearing was open to the public and each attendee was given an opportunity to comment on the proposed standards. The public comment period was from January 20, 1983, to April 1, 1983.

Nine comment letters were received and two interested parties testified at the public hearing concerning issues relative to the proposed standards. The comments have been carefully considered and, where determined to be appropriate by the Administrator, changes have been made in the proposed standards. In addition, the EPA met with representatives of the Rubber Manufacturers' Association (RMA) on December 12, 1983, to discuss the feasibility of a compliance bubble for the rubber tire industry.

Major Comments and Changes to the Proposed Standards

Comments on the proposed standards were received from rubber tire manufacturers, a trade association, and from one State agency. A detailed discussion of these comments and responses can be found in the promulgation BID, which is referred to in the **ADDRESSES** section of this preamble. The summary of comments and responses in the promulgation BID service as the basis for the revisions which have been made to the standards between proposal and promulgation. The major comments and responses are summarized in this preamble.

Significant changes in the standards since proposal include a change in the definition of an affected green tire spraying facility; the addition of emission limits for green tire spraying operations where organic solvent-based green tire sprays are used; a change in the format of the VOC use rate cutoffs for undertread cementing and sidewall cementing; the addition of a VOC use rate cutoff for green tire spraying operations, Michelin-A operations, Michelin-B operations, and Michelin-C-automatic operations; and the addition of an alternative compliance method for geen tire spraying operations that use organic solvent-based sprays. Emission limits, a VOC use cutoff, and an alternative compliance method for green tire spraying facilities were added in response to industry claims that organic solvent-based sprays must be used in some circumstances. VOC use cutoffs for Michelin-A, -B, and -C-automatic facilities were added in response to receipt of more detailed information on the design and costs of the emission reduction systems that would be applied to these facilities.

The emission limit for bead cementing has been revised from a grams of VOC per tire limit to a grams of VOC per bead limit. The definition of "month" also has been changed. These changes are explained in the promulgation BID.

Several comments in favor of a compliance bubble for tire manufacturing plants were received. While a generic bubble is not being provided in the standards, as discussed under a later section in this preamble, "Bubble Considerations," the Administrator will consider requests for specific compliance bubbles on a case-by-case basis. Factors that the Agency would consider in approving specific bubble applications are discussed in a recently approved NSPS bubble application (52 FR 28946, August 4, 1987).

A statement has been added to the regulation [§ 60.543(1)] to clarify that the precent emission reduction requirements and monthly VOC use cutoffs for undertread cementing, sidewall cementing, green tire spraying, Michelin-A, Michelin-B, and Michelin-C-automatic operations apply to all VOC used in cements and organic solvent-based green tire sprays, including that VOC used for tire types other than those defined in the regulation

[§ 60.541(a)(16)]. At proposal, the EPA believed that only those tires defined in the regulation would be processed at these operations and that other tire types would be processed only at different specialized operations. Since proposal, the EPA has learned that other tire types may be processed on the same equipment and in the same manner as those tires defined in the regulation. VOC emissions from cementing/spraying other tire types at these operations can be captured and controlled in the same manner as VOC emissions from cementing/spraying those tires defined in the regulation. Furthermore, total VOC use data, which are independent of tire size and use, were used to develop the percent emission reduction requirements and monthly VOC use cutoffs.

A second statement has been added to the regulation [§ 60.543(m)] to clarify that only those tires defined in the regulation should be counted in determining the total number of tread ends cemented, beads cemented, green tires sprayed with inside water-based spray, and green tires sprayed with outside water-based sprays each month. The g/tire and g/bead emissions limits for these operations are based on production and VOC use data only for the types of tires defined in the regulation. Therefore, other tire types should not be counted when determining compliance with the g/tire or g/bead limits.

Neither of these clarifications alters the applicability of the standards as proposed. For an operation to be considered an affected facility, it must, at some time, process a type of tire as defined in the regulation. If no tires, as defined in the regulation, are ever processed at a particular operation, then it is not an affected facility. In any subsequent revision of these standards (e.g., the 4-year review), the EPA will consider expanding the scope of the definition of the affected facilities for those operations which have percent emission reduction requirements and monthly VOC use cutoffs to include operations where only tire types other than those now defined in the regulation are processed.

At proposal, owners and operators who use a carbon adsorber to achieve compliance with a precent reduction requirement by meeting equipment specifications would have been required, upon EPA promulgation of the necessary continuous monitor performance specifications, to install an emissions monitor to measure the VOC concentration of the exhaust gases. The Agency has not developed such continuous monitor performance specifications for VOC. However, organics monitoring devices are available that can serve as concentration level indicators for determining proper operation and maintenance without the necessity for performance specifications. In addition, these monitoring devices are substantially less costly to operate than emissions monitors and can be operated more easily. Thus, the final standards have been revised to require the installation of organics concentration monitoring devices (where carbon adsorbers are used to achieve compliance with a percent reduction requirement by meeting equipment specifications) for the purpose of determining proper operation and maintenance of the carbon adsorbers.

VOC Use Cutoffs and Definition of the Total Number of Tires Processed (T_o)

Several commenters contended that the proposed method of counting tires at an affected facility to determine the gram per tire VOC usage rate [T_o in § 60.542(c)(2)] would penalize tire manufacturers who eliminate organic solvent application for part of their production at a particular affected facility. Several commenters subsequently requested that the EPA delete the phrase "* * * which receive an application of cement (green tire spray)" from the proposed definition of T_o. These commenters suggested that, for the purpose of performance test calculations in § 60.543(c)(2), T_o should equal the total number of tires or tire components processed at an affected facility. One commenter contended that under the proposed definition of T_o, an affected facility theoretically could be required to install VOC control technology when less than 10 percent of the tires or tire components passing through the affected facility actually are cemented. Another commenter showed that under the proposed definition of T_o, add-on emission controls would be required for one of his plants' undertread cementing operations even though 60 percent of the production is not cemented. This commenter explained that if 0.1 gram of VOC were applied to each tire presently not cemented at the facility, no add-on controls would be required because the proposed definition of T_o would count all tires cemented. The commenter remarked that, based on the example presented above, the proposed definition of T_o would have a result which is contrary to the EPA's intent to have tire manufacturers reduce or eliminate organic solvent use. This commenter stated that if the definition of T_o were revised as requested, credit would be given to his company for eliminating the application of undertread cement to a portion of its production and, consequently, no VOC controls would be required.

The proposed standards would require that VOC emissions be reduced by 75 percent at affected undertread cementing and sidewall cementing facilities where in each calendar month VOC use exceeds an average of 25 g/tire [§ 60.542(a)(1) and (2)]. The percent emission reduction requirement reflects the applicaton of BDT as required by the Clean Air Act.

The gram per tire VOC use cutoffs were provided to exempt from the emission reduction requirements facilities that would incur control costs which the Administrator judge to be too high for the emission reduction achieved. In selecting the 25 g/tire number, the EPA recognized that some tires receiving undertread or sidewall cement would receive less than 25 grams of VOC and others would receive greater than 25 grams of VOC, but, on the average, VOC use would be 25 g/tire, assuming that all tires received an application of cement.

The commenter presented a situation where a large portion of the tire production does not receive undertread cement. However, VOC use is greater than 25 g/tire for the portion of production receiving cement, the only tires that would be counted under the proposed definition of T_o. In this situation, the EPA agrees that the proposed definition of T_o could result in requiring a manufacturer to reduce VOC emissions where the control costs were judged unreasonable for the emission reduction achieved.

With this concern in mind, the EPA has revised the cutoffs. The revised cutoffs are based on total (uncontrolled) monthly VOC usage at the facility. The total (uncontrolled) monthly VOC use cutoffs are equivalent to the proposed 25 g/tire cutoffs, as they were developed using the same bases (production rates, etc.) that were used to determine the proposed 25 g/tire cutoffs. In addition, the VOC use cutoff number reflect the same cost-effectiveness value as the 25 g/tire cutoff numbers. Furthermore, the VOC use format better reflects the EPA's basis (total solvent use, regardless of the number of tires processed) for exemption facilities that would incur control costs judged too high for the amount of emission reduction that would be achieved. This format also eliminates the commenter's problem of having to reduce emissions by 75 percent where total VOC use

could be relatively "small", but the amount of VOC applied per tire could exceed the proposed 25 g/tire cutoff.

The monthly VOC use cutoff figure would depend on whether a calendar month schedule or a "4–4–5" week production schedule is used for compliance and the number of days in a calendar month. Where VOC use at each undertread cementing facility is equal to or less than the following monthly cutoffs, 75 percent emission reduction is not required at that facility:

Number of days per month	VOC use limit
28	3,870 kg
29	4,010 kg
30	4,150 kg
31	4,280 kg
35	4,840 kg (for 5-week production months only).

Where VOC use at each sidewall cementing facility is equal to or less than the following monthly cutoffs, 75 percent emission reduction is not required at that facility:

Number of days per month	VOC use limit
28	3,220 kg
29	3,340 kg
30	3,450 kg
31	3,570 kg
35	4,030 kg (for 5-week production months only).

The standards for bead cementing operations, tread end cementing operations, and green tire spraying operations that use water-based sprays require tire manufacturers to maintain VOC emissions from these operations at or below the levels selected as representative of BDT. VOC consumption and tire production data supplied by the industry indicated that, on the average, VOC emissions of 10 g/tire or less for tires receiving tread end cement and emissions of 5 g/bead or less for beads receiving cement are achievable. The data also show that VOC emissions of 1.2 g/tire or less for tires receiving water-based inside green tire sprays and emissions of 9.3 g/tire or less for tires receiving water-based outside green tire sprays are achievable. Commenters have not provided information indicating that these levels are not achievable. Consequently, T_o for bead cementing, tread end cementing, and water-based green tire spraying will remain as the number of tires or components receiving an application of cement or spray.

Organic Green Tire Spraying Emission Limits

Several commenters requested that the proposed standards for inside and outside green tire spraying be revised to include provisions for use of organic solvent-based green tire sprays. One commenter was concerned that the proposed standards assume that all affected green tire spraying operations can use water-based sprays and that the proposed emission limits (1.2 g/tire for inside sprays, 9.3 g/tire for outside sprays) are significantly more stringent than could be achieved by using organic solvent-based sprays in conjunction with the best capture and control devices.

The proposed standards for inside and outside green tire spraying were based on industry-supplied information indicating that water-based sprays were replacing organic solvent-based sprays at most operations. While the EPA still believes that use of water-based sprays will predominate, it recognizes that organic solvent-based green tire sprays must be used in some cases. Consequently, a standard of performance has been developed for green tire spraying operations where organic solvent-based sprays are used. The EPA has determined that 75 percent emission reduction, based on 80 percent capture and 95 percent control, represent the best system of continuous emission reduction for organic solvent-based green tire sprays. Accordingly, the standard requires a 75 percent emission reduction at a facility where VOC use from organic solvent-based sprays exceeds the monthly cutoffs. In addition, an alternative compliance method is provided.

The following monthly total (uncontrolled) VOC use cutoffs represent the combined VOC use rate for organic solvent-based inside and outside spray applications below which the cost to reduce VOC emissions by 75 percent from a single green tire spraying facility has been judged unreasonable for the emission reduction achieved:

Number of days per month	VOC use limit
28	3,220 kg
29	3,340 kg
30	3,450 kg
31	3,570 kg
35	4,030 kg (for 5-week production months only).

Costs used to develop the cutoffs were based upon a retrofit situation, where VOC emissions captured in an enclosed booth are vented to a baghouse for particulate removal and then to a carbon adsorber for recovery.

The EPA is including equipment requirements as an alternate method of demonstrating compliance with the standards for green tire spraying operations. This alternative compliance method is similar to that included in the alternative compliance method for undertread cementing and sidewall cementing [§ 60.543(j)].

Under the alternative compliance method, the owner or operator of an affected green tire spraying facility can seek to demonstrate compliance with the standards for green tire spraying facilities where organic solvent-based sprays are used by meeting the following design and equipment requirements:

1. Enclosure (i.e., the capture system) of the spray application and drying areas;

2. 100 feet per minute (fpm) face velocity through all permanent openings in the capture system;

3. Coated green tires retained in capture system for at least 30 seconds;

4. The total area of all permanent openings into the enclosure does not exceed the area necessary to maintain the VOC concentration of the exhaust stream at 25 percent of the lower explosive limit (LEL) when the facility is operating at its maximum solvent use rate, the face velocity through all permanent openings is 100 fpm, and all temporary openings are closed; and

5. Captured VOC vented to a 95 percent efficient control device. The 100 foot per minute face velocity requirement for all permanent openings and the 30-second retention time requirement for coated green tires are to assure optimal capture of VOC. The purpose of the maximum permanent opening area requirement is to minimize the escape of fugitive emissions from the enclosure. Twenty-five percent of the LEL was selected as the reference point for sizing permanent openings because it represents the level of dilution most commonly used to avoid fire and explosion hazards. Ninety-five percent control of captured VOC is required as this is considered best demonstrated technology. A particulate removal device, such as a scrubber, a filter, cyclone, or baghouse, may be needed in some cases to pretreat the green tire spray exhaust stream prior to its entering the VOC control device in order to avoid fouling of the VOC control device by particulates in the green tire overspray. However, exhaust stream pretreatment for particlate removal is not required by these standards.

Bubble Considerations

Most of the commenters requested that a general bubble provision be added to the standards before promulgation. Such a provision would set a special emission limit or limits solely for use in bubbles. The commenters believe that a bubble is

appropriate for this industry because there is a large number of small affected facilities, and they claim that the cost of capture and control technology may vary widely from facility to facility. A bubble provision could encourage firms subject to this NSPS to remove additional emmissions at those new facilities where reduction is least costly, in exchange for not controlling facilities where control is more costly. The commenters state that the control flexibility provided by a bubble would provide the potential for large cost savings to the industry.

The Agency has recently approved an NSPS bubble application (52 FR 28946, August 4, 1987). In doing this, the Agency made clear that we will receive case-by-case applications for NSPS compliance bubbles. The major factors that will influence decisions on whether to approve them were also described. The Agency will consider bubbles for rubber tire manufacturing facilities on a case-by-case basis in accordance with such factors.

One factor relevant to the bubbles suggested by the commenters is that EPA will approve only NSPS bubbles that result in an emission reduction at least as great as would have resulted from facility-by-facility application of the NSPS. The two specific examples of potential rubber tire bubbles suggested during the public comment period however would have resulted in more emissions than would have occurred under the facility-by-facility application of the NSPS. Therefore, these bubbles were not approvable. Our reasons for this conclusion and responses are described below for the information of future applicants.

The first suggestion proposed a trade of emissions between an undertread cementing facility and a tread end cementing facility. The uncontrolled VOC emissions from the facilities would be 63 g/tire and 15.1 g/tire, respectively. The commenter used the proposed 25 g/tire VOC use cutoff level as the emission limit for the undertread cementing facility and combined that level with the 10 g/tire limit for tread end cementing for a bubble limit of 35 g/tire. The commenter would install a 75 percent efficient capture and control system at the undertread cementing facility to reduce emissions to 15.7 g/tire. The 15.7 g/tire emission rate combined with the uncontrolled emission rate of 15.1 g/tire at the tread end cementing facility (15.7+15.1=30.8) would be less than the commenter's claimed 35 g/tire bubble limit, thereby allowing the commenter to avoid reducing emisisons from the tread end cementing facility. This example used the proposed 25 g/tire VOC use cutoff (now revised to a monthly VOC use level) as an allowable emission level for an undertread cementing facility that uses a capture/control system, instead of the 15.7 g/tire level that would be required by the standards (75 percent reduction from the uncontrolled level of 63 g/tire). Under the facility-by-facility standards, the combined emissions from undertread cementing and tread end cementing would be, at most, 25.7 g/tire (15.7+10=25.7); under the commenter's proposed bubble, the emissions would be 30.8 g/tire, or at least 5 g/tire greater than the emissions under the facility-by-facility application of the standards.

Furthermore, the commenter's use of the VOC use cutoff numbers as emission limits for facilities for the capture/control systems is a misapplication of the cutoffs. The cutoff numbers represent a VOC use rate at which the cost of operating a capture/control system was judged to be too high for the emission reduction achieved; that is, if a facility uses only 25 g/tire or less, no further emision reduction would be required. However, facilities using more than 25 g/tire are required to reduce emissions by 75 percent because capture and control costs are reasonable for these facilities. Thus, the commenter is applying the wrong emission limit to undertread cementing, since his uncontrolled level is 63 g/tire.

The second example proposed to allow a plant owner/operator to obtain emission credits for operations that are not performed at a particular tire plant. This commenter no longer cements beads as part of the manufacturing process and wanted to obtain credit equal to the 10 g/tire bead cementing limit for use at another new facility (presumably to avoid installing BDT controls at an undertread cementing or sidewall cementing facility).

The approach of generating NSPS emission reduction credit from avoiding construction of certain emitting facilities would not be permitted where the credits would clearly result in increased emissions. If credit were given for production facilities which have not been built, other facilities which have been built might not need to install BDT. For example, if the 5 g/bead limit for bead cementing (again, this figure is equivalent, in most cases, to 10 g/tire) in the above proposal were given as a credit to be applied elsewhere, emissions from the plant could be 10 g/tire higher under a bubble than they would be under the facility-by-facility standards.

Docket

The docket is an organized and complete file of all the information considered by the EPA in the development of this rulemaking. The docket is a dynamic file, since material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can intelligently and effectively participate in the rulemaking process. Along with the statement of basis and purpose of the proposed and promulgated standards and the EPA responses to significant comments, the contents of the docket will serve as the record in case of judicial review [section 307(d)(7)A)].

Miscellaneous

The effective date of this regulation is September 15, 1987. Section 111 of the Clean Air Act provides that standards of performance or revisions thereof become effective upon promulgation and apply to affected facilities, construction or modification of which was commenced after the date of proposal, January 20, 1983.

As prescribed by section 111, the promulgation of these standards was preceded by the Administrator's determination (40 CFR 60.16, 44 FR 49222, dated August 21, 1979) that the rubber tire manufacturing segment of the synthetic rubber source category contributes significantly to air pollution which may reasonably be anticipated to endanger public health or welfare. In accordance with section 117 of the Act, publication of these promulgated standards was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies.

This regulation will be reviewed 4 years from the date of promulgation as required by the Clean Air Act. This review will include an assessment of such factors as the need for integration with other programs, the existence of alternative methods, enforceability, improvements in emission control technology, and reporting requirements.

Information collection requirements associated with this regulation (those included in 40 CFR 60.7, 60.545, and 60.546) have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* and have been assigned OMB control number 2060-0156.

Section 317 of the Clean Air Act requires the Administrator to prepare an economic impact assessment for any new source standard of performance promulgated under section 111(b) of the Act. An economic impact assessment was prepared for this regulation and for other regulatory alternatives. All aspects of the assessment were considered in determining BDT. The economic impact assessment is included in the background information document for the proposed standards.

In addition to economics, the cost-effectiveness numbers of alternative standards were also evaluated to assure that the controls required by this rule are reasonable relative to other VOC regulations. In this case, the standards would increase the rubber tire manufacturers' operating costs, producing an average cost effectiveness in the fifth year of about $615 per megagram of VOC emission reduction if recovery credits are assumed. Additional detail on costs can be found in the background information document.

Percent Emission Reduction Standards.

As discussed in the preamble to the proposed standards, the percent emission reduction format was selected as the format of the standards for undertread cementing operations, sidewall cementing operations, organic-based green tire spraying operations, Michelin-A operations, Michelin-B operations, and Michelin-C-automatic operations. For each of these affected facilities, there exists a wide variability of VOC use among manufacturers and, in some cases, among individual plants. Because of the difficulty in identifying the reasons for this variability and because of concerns regarding potential tire safety implications, the EPA sought to establish standards that would not require affected facilities to restrict VOC use. Given these conditions, the percent emission reduction format conforms better than other formats with the Clean Air Act requirement in section 111(a) that "a standard of performance shall reflect the degree of emission limitation and the percentage reduction achievable through application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction . . .) the Administrator determines has been adequately demonstrated."

However, there may be two disadvantages associated with percent emission reduction standards. First, percent emission reduction requirements may not provide a strong incentive to reduce VOC use. However, reducing VOC use at any of these facilities would offer the potential for lower costs due to the reduction in the amount of solvent required. It would also allow the owner or operator to achieve the required percent emission reduction with a smaller capture system and control device. While the resulting cost savings could be substantial, they may not offer sufficient incentive to use less VOC or to employ tackifying processes that do not require the use of VOC. For example, those tire manufacturers using the largest amounts of VOC at their cementing operations may not attempt to use less VOC since they would still be required to operate a 75 percent efficient capture/control system. However, the inclusion of low VOC use cutoffs provides an economic incentive for many sources to reduce VOC usage. A second potential disadvantage with percent emission reduction standards is that they may not contribute to cost-efficiency goals which aim to equate the marginal costs per unit of emission reduction among polluters. The percent emission reduction format, while equalizing costs, tends to increase, rather than minimize, differences in marginal cost-effectiveness values, i.e., the costs of making equal percent reductions are unequal. For rubber tire manufacturers, the costs per ton of VOC removed are greater for medium VOC users than for high VOC users (although the total costs are lower for medium users.

On balance, due to the wide variability in VOC use and the EPA's efforts to take into consideration the industry's tire safety concerns, the advantages of percent emission reduction standards for the rubber tire manufacturing industry are judged to outweigh the disadvantages.

"Major Rule" Determination

Under Executive Order 12291, the EPA is required to judge whether a regulation is a "major rule" and therefore subject to certain requirements of the Order. The Agency has determined that this regulation would result in none of the adverse economic effects set forth in section 1 of the Order as grounds for finding a regulation to be "major rule." Fifth-year annualized costs of the standard, compared to an uncontrolled situation, would be about $1.4 million. The product wholesale price is not expected to increase. The Agency has therefore concluded that the proposed regulation is not a "major rule" under Executive Order 12291.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any comments from the OMB to the EPA and any EPA response to those comments are available for public inspection in Docket No. A–80–9, EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, SW., Washington, DC 20460.

Regulatory Flexibility Analysis Certification

The Regulatory Flexibility Act of 1980 requires that adverse effects of all Federal regulations upon small businesses be identified. According to current Small Business Administration guidelines, a small business in the SIC category 3011, "Tires and innertubes," is one that has 1,000 employees or less. This is the criterion to qualify for SBA loans or for the purpose of government procurement. Of the 16 tire manufacturing companies, 3 existing companies have less than 1,000 employees. An industry representative has stated that employment in a typical new plant is expected to average 1,400, with a range of 1,000 to 2,000. Thus, it is unlikely that any new plant would be considered a small entity. Existing small entities are not expected to become subject to the NSPS through new construction, modification, or reconstruction. However, if a small business did become subject to the NSPS, the cost of compliance would have minimal impacts.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the attached rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 60

Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping, Rubber tire manufacturing (SIC 3011).

Date: September 1, 1987.

Lee M. Thomas,

Administrator.

For reasons set out in the preamble, 40 CFR Part 60 is amended as follows:

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

1. The authority citation for Part 60 continues to read as follows:

Authority: 41 U.S.C. 7411, 7414, and 7601(a).

2. 40 CFR Part 60 is amended by adding a new Subpart BBB to read as follows:

Subpart BBB—Standards of Performance for the Rubber Tire Manufacturing Industry

Sec.

60.540 Applicability and designation of affected facilities.

Sec.

Subpart BBB—Standards of Performance for the Rubber Tire Manufacturing Industry

§ 60.540 Applicability and designation of affected facilities.

(a) The provisions of this subpart apply to the following affected facilities in rubber tire manufacturing plants: each undertread cementing operation, each sidewall cementing operation, each tread end cementing operation, each bead cementing operation, each green tire spraying operation, each Michelin-A operation, each Michelin-B operation, and each Michelin-C-automatic operation.

(b) The provisions of this subpart apply to each facility identified in paragrpah (a) of this section that commences construction or modification after January 20, 1983.

(c) Although the affected facilities listed under § 60.540(a) are defined in reference to the production of components of a "tire," as defined under § 60.541(a), the percent emission reduction requirements and VOC use cutoffs specified under § 60.542(a)(1), (2), (6), (7)(iii), (7)(iv), (8), (9), and (10) refer to the total amount of VOC used (the amount allocated to the affected facility), including the VOC used in cements and organic solvent-based green tire spray materials for tire types not listed in the § 60.541(a) definition of "tire."

§ 60.541 Definitions.

(a) All terms that are used in this subpart and are not defined below are given the same meaning as in the Act and in Subpart A of this part.

"Bead" means rubber-covered strands of wire, wound into a circular form, which ensure a seal between a tire and the rim of the wheel onto which the tire is mounted.

"Bead cementing operation" means the system that is used to apply cement to the bead rubber before or after it is wound into its final circular form. A bead cementing operation consists of a cement application station, such as a dip tank, spray booth and nozzles, cement trough and roller or swab applicator, and all other equipment necessary to apply cement to wound beads or bead rubber and to allow evaporation of solvent from cemented beads.

"Component" means a piece of tread, combined tread/sidewall, or separate sidewall rubber, or other rubber strip that is combined into the sidewall of a finished tire.

"Drying area" means the area where VOC from applied cement or green tire sprays is allowed to evaporate.

"Enclosure" means a structure that surrounds a VOC (cement, solvent, or spray) application area and drying area, and that captures and contains evaporated VOC and vents it to a control device. Enclosures may have permanent and temporary openings.

"Green tire" means an assembled, uncured tire.

"Green tire spraying operation" means the system used to apply a mold release agent and lubricant to the inside and/or outside of green tires to facilitate the curing process and to prevent rubber from sticking to the curing press. A green tire spraying operation consists of a booth where spraying is performed, the spray application station, and related equipment, such as the lubricant supply system.

"Michelin-A operation" means the operation identified as Michelin-A in the Emission Standards and Engineering Division confidential file as referenced in Docket A–80–9, Entry II–B–12.

"Michelin-B operation" means the operation identified as Michelin-B in the Emission Standards and Engineering Division confidential file as referenced in Docket A–80–9, Entry II–B–12.

"Michelin-C-automatic operation" means the operation identifed as Michelin-C-automatic in the Emission Standards and Engineering Division confidential file as referenced in Docket A–80–9, Entry II–B–12.

"Month" means a calendar month or a prespecified period of 28 days or 35 days (utilizing a 4–4–5-week recordkeeping and reporting schedule).

"Organic solvent-based green tire spray" means any mold release agent and lubricant applied to the inside or outside of green tires that contains more than 12 percent, by weight, of VOC as sprayed.

"Permanent opening" means an opening designed into an enclosure to allow tire components to pass through the enclosure by conveyor or other mechanical means, to provide access for permanent mechanical or electrical equipment, or to direct air flow into the enclosure. A permanent opening is not equipped with a door or other means of obstruction of air flow.

"Sidewall cementing operation" means the system used to apply cement to a continuous strip of sidewall component or any other continuous strip component (except combined tread/sidewall component) that is incorporated into the sidewall of a finished tire. A sidewall cementing operation consists of a cement application station and all other equipment, such as the cement supply system and feed and takeaway conveyors, necessary to apply cement to sidewall strips or other continuous strip component (except combined tread/sidewall component) and to allow evaporation of solvent from the cemented rubber.

"Temporary opening" means an opening into an enclosure that is equipped with a means of obstruction, such as a door, window, or port, that is normally closed.

"Tire" means any agricultural, airplane, industrial, mobile home, light-duty truck and/or passenger vehicle tire that has a bead diameter less than or equal to 0.5 meter (m) (19.7 inches) and a cross section dimension less than or equal to 0.325 m (12.8 in.), and that is mass produced in an assembly-line fashion.

"Tread end cementing operation" means the system used to apply cement to one or both ends of the tread or combined tread/sidewall component. A tread end cementing operation consists of a cement application station and all other equipment, such as the cement supply system and feed and takeaway conveyors, necessary to apply cement to tread ends and to allow evaporation of solvent from the cemented tread ends.

"Undertread cementing operation" means the system used to apply cement to a continuous strip of tread or combined tread/sidewall component. An undertread cementing operation consists of a cement application station and all other equipment, such as the cement supply system and feed and takeaway conveyors, necessary to apply cement to tread or combined tread/sidewall strips and to allow evaporation of solvent from the cemented tread or combined tread/sidewall.

"VOC emission control device" means equipment that destroys or recovers VOC.

"VOC emission reduction system" means a system composed of an enclosure, hood, or other device for containment and capture of VOC emissions and a VOC emission control device.

"Water-based green tire spray" means any mold release agent and lubricant applied to the inside or outside of green tires that contains 12 percent or less, by weight, of VOC as sprayed.

(b) Notations used under this subpart are defined below:

B_o = total number of beads cemented at a particular bead cementing affected facility for a month

C_a = concentration of VOC in gas stream in vents after a control device (parts per million by volume)

C_b = concentration of VOC in gas stream in vents before a control device (parts per million by volume)

C_f = concentration of VOC in each gas stream vented directly to the atmosphere from an affected facility or from a temporary enclosure around an affected facility (parts per million by volume)

D_c = density of cement or spray material (grams per litre)

D_r = density of VOC recovered by an emission control device (grams per litre)

E = emission control device efficiency, inlet versus outlet (fraction)

F_c = capture efficiency, VOC captured and routed to one control device versus total VOC used for an affected facility (fraction)

F_o = fraction of total mass of VOC used in a month by all facilities served by a common cement or spray material distribution system that is used by a particular affected facility served by the common distribution system

G = monthly average mass of VOC used per tire cemented or sprayed with a water-based green tire spray for a particular affected facility (grams per tire)

G_b = monthly average mass of VOC used per bead cemented for a particular bead cementing affected facility (grams per bead)

L_c = volume of cement or spray material used for a month (liters)

L_r = volume of VOC recovered by an emission control device for a month (liters)

M = total mass of VOC used for a month by all facilities served by a common cement or spray material distribution system (grams)

M_o = total mass of VOC used at an affected facility for a month (grams)

M_r = mass of VOC recovered by an emission control device for a month (grams)

N = mass of VOC emitted to the atmosphere per tire cemented or sprayed with a water-based green tire spray for an affected facility for a month (grams per tire)

N_b = mass of VOC emitted per bead cemented for an affected facility for a month (grams per bead)

Q_a = volumetric flow rate in vents after a control device (dry standard cubic meters per hour)

Q_b = volumetric flow rate in vents before a control device (dry standard cubic meters per hour)

Q_f = volumetric flow rate of each stream vented directly to the atmosphere from an affected facility or from a temporary enclosure around an affected facility (dry standard cubic meters per hour)

R = overall efficiency of an emission reduction system (fraction)

T_d = total number of days in monthly compliance period (days)

T_o = total number of tires cemented or sprayed with water-based green tire sprays at a particular affected facility for a month

W_o = weight fraction of VOC in a cement or spray material.

§ 60.542 Standards for volatile organic compounds.

(a) On and after the date on which the initial performance test, required by § 60.8, is completed, but no later than 180 days after initial startup, each owner or operator subject to the provisions of this subpart shall comply with the following conditions:

(1) For each undertread cementing operation:

(i) Discharge into the atmosphere no more than 25 percent of the VOC used (75 percent emission reduction) for each month; or

(ii) Maintain total (uncontrolled) VOC use less than or equal to the levels specified below, depending upon the duration of the compliance period:

(A) 3,870 kilograms of VOC per 28 days,

(B) 4,010 kilograms of VOC per 29 days,

(C) 4,150 kilograms of VOC per 30 days,

(D) 4,280 kilograms of VOC per 31 days, or

(E) 4,840 kilograms of VOC per 35 days.

(2) For each sidewall cementing operation:

(i) Discharge into the atmosphere no more than 25 percent of the VOC used (75 percent emission reduction) for each month; or

(ii) Maintain total (uncontrolled) VOC use less than or equal to the levels specified below, depending upon the duration of the compliance period:

(A) 3,220 kilograms of VOC per 28 days,

(B) 3,340 kilograms of VOC per 29 days,

(C) 3,450 kilograms of VOC per 30 days,

(D) 3,570 kilograms of VOC per 31 days, or

(E) 4,030 kilograms of VOC per 35 days.

(3) For each tread end cementing operation: Discharge into the atmosphere no more than 10 grams of VOC per tire (g/tire) cemented for each month.

(4) For each bead cementing operation: Discharge into the atmosphere no more than 5 grams of VOC per bead (g/bead) cemented for each month.

(5) For each green tire spraying operation where only water-based sprays are used:

(i) Discharge into the atmosphere no more than 1.2 grams of VOC per tire sprayed with an inside green tire spray for each month; and

(ii) Discharge into the atmosphere no more than 9.3 grams of VOC per tire sprayed with an outside green tire spray for each month.

(6) For each green tire spraying operation where only ogranic solvent-based sprays are used:

(i) Discharge into the atmosphere no more than 25 percent of the VOC used (75 percent emission reduction) for each month; or

(ii) Maintain total (uncontrolled) VOC use less than or equal to the levels specified below, depending upon the duration of the compliance period:

(A) 3,220 kilograms of VOC per 28 days,

(B) 3,340 kilograms of VOC per 29 days,

(C) 3,450 kilograms of VOC per 30 days,

(D) 3,570 kilograms of VOC per 31 days, or

(E) 4,030 kilograms of VOC per 35 days.

(7) For each green tire spraying operation where both water-based and organic solvent-based sprays are used:

(i) Discharge into the atmosphere no more than 1.2 grams of VOC per tire sprayed with a water-based inside green tire spray for each month; and

(ii) Discharge into the atmosphere no more than 9.3 grams of VOC per tire sprayed with a water-based outside green tire spray for each month; and either

(iii) Discharge into the atmosphere no more than 25 percent of the VOC used in the organic solvent-based green tire sprays (75 percent emission reduction) for each month; or

(iv) Maintain total (uncontrolled) VOC use for all organic solvent-based green tire sprays less than or equal to the levels specified under paragraph (a)(6)(ii) of this section.

(8) For each Michelin-A operation:

(i) Discharge into the atmosphere no more than 35 percent of the VOC used

(65 percent emission reduction) for each month; or

(ii) Maintain total (uncontrolled) VOC use less than or equal to the levels specified below, depending upon the duration of the compliance period:

(A) 1570 Kilograms of VOC per 28 days,

(B) 1630 Kilograms of VOC per 29 days,

(C) 1690 Kilograms of VOC per 30 days,

(D) 1740 Kilograms of VOC per 31 days, or

(E) 1970 Kilograms of VOC per 35 days.

(9) For each Michelin-B operation:

(i) Discharge into the atmosphere no more than 25 percent of the VOC used (75 percent emission reduction) for each month; or

(ii) Maintain total (uncontrolled) VOC use less than or equal to the levels specified below, depending upon the duration of the compliance period:

(A) 1310 Kilograms of VOC per 28 days,

(B) 1360 Kilograms of VOC per 29 days,

(C) 1400 Kilograms of VOC per 30 days,

(D) 1450 Kilograms of VOC per 31 days, or

(E) 1640 Kilograms of VOC per 35 days.

(10) For each Michelin-C-automatic operation:

(i) Discharge into the atmosphere no more than 35 percent of the VOC used (65 percent emission reduction) for each month; or

(ii) Maintain total (uncontrolled) VOC use less than or equal to the levels specified under paragraph (a)(8)(ii) of this section.

§ 60.543 Performance test and compliance provisions.

(a) Section 60.8(d) does apply to the monthly performance test procedures required by this subpart. Section 60.8(d) does not apply to initial performance tests and to the performance tests specified under paragraphs (b)(2) and (b)(3) of this section. Section 60.8(f) does not apply when Method 24 is used.

(b) Performance tests shall be conducted as follows:

(1) The owner or operator of an affected facility shall conduct an initial performance test, as required under § 60.8(a), except as described under paragraph (j) of this section. The owner or operator of an affected facility shall thereafter conduct a performance test each month except as described under paragraphs (g)(1) and (j) of this section. Initial and monthly performance tests shall be conducted according to the procedures in this section.

(2) The owner or operator of an affected facility who elects to use a VOC emission reduction system with a control device that destroys VOC (e.g., incinerator), as described under paragraphs (f) and (g) of this section, shall repeat the performance test when directed by the Administrator or when the owner or operator elects to operate the capture system or control device at conditions different from the most recent determination of overall reduction efficiency. The performance test shall be conducted in accordance with the procedures described under paragraphs (f)(2) (i) through (iii) of this section.

(3) The owner or operator of an affected facility who seeks to comply with the equipment design and performance specifications, as described under paragraph (j) of this section, shall repeat the performance test when directed by the Administrator or when the owner or operator elects to operate the capture system or control device at conditions different from the most recent determination of control device efficiency or measurement of capture system retention time or face velocity. The performance test shall be conducted in accordance with the procedures described under paragraph (f)(2)(ii) of this section.

(c) For each undertread cementing operation, each sidewall cementing operation, each green tire spraying operation where organic solvent-based sprays are used, each Michelin-A operation, each Michelin-B operation, and each Michelin-C-automatic operation where the owner or operator seeks to comply with the uncontrolled monthly VOC use (kg/mo) limits, the owner or operator shall use the following procedure to determine compliance with the applicable (depending upon duration of compliance period) uncontrolled monthly VOC use limit specified under § 60.542(a) (1)(ii), (2)(ii), (6)(ii), (7)(iv), (8)(ii), (9)(ii), and (10)(ii). If both undertread cementing and sidewall cementing are performed at the same affected facility during a month, then the kg/mo limit specified under § 60.542(a)(1)(ii) shall apply for that month.

(1) Determine the density and weight fraction VOC (including dilution VOC) of each cement or green tire spray from its formulation or by analysis of the cement or green tire spray using Method 24. If a dispute arises, the Administrator may require an owner or operator who used formulation data to analyze the cement or green tire spray using Method 24.

(2) Calculate the total mass of VOC used at the affected facility for the month (M_o) by the following procedure:

(i) For each affected facility for which cement or green tire spray is delivered in batch or via a distribution system that serves only the affected facility:

$$M_O = \sum_{i=1}^{a} L_{C_i} D_{C_i} W_{O_i}$$

where: "a" equals the number of different cements or green tire sprays used during the month that are delivered in batch or via a distribution system that serves only a single affected facility.

(ii) For each affected facility for which cement or green tire spray is delivered via a common distribution system that also serves other affected or existing facilities:

(A) Calculate the total mass of VOC used for all of the facilities served by the common distribution system for the month (M):

$$M = \sum_{i=1}^{b} L_{C_i} D_{C_i} W_{O_i}$$

where: "b" equals the number of different cements or green tire sprays used during the month that are delivered via a common distribution system that also serves other affected or existing facilities.

(B) Determine the fraction (F_o) of M used at the affected facility by comparing the production records and process specifications for the material cemented or sprayed at the affected facility for the month to the production records and process specifications for the material cemented or sprayed at all other facilities served by the common distribution system for the month or by another procedure acceptable to the Administrator.

(C) Calculate the total monthly mass of VOC used at the affected facility for the month (M_o):

$$M_O = MF_O$$

(3) Determine the time duration of the monthly compliance period (T_d).

(d) For each tread end cementing operation and each green tire spraying operation where water-based sprays are used (inside and/or outside) that do not use a VOC emission reduction system, the owner or operator shall use the following procedure to determine compliance with the g/tire limit

specified under § 60.542(a) (3), (5)(i), (5)(ii), (7)(i), and (7)(ii).

(1) Determine the density and weight fraction VOC as specified under paragraph (c)(1) of this section.

(2) Calculate the total mass of VOC used at the affected facility for the month (M_o) as specified under paragraph (c)(2) of this section.

(3) Determine the total number of tire cemented or sprayed at the affected facility for the month (T_o) by the following procedure:

(i) For a trend end cementing operation, T_o equals the number of tread or combined tread/sidewall components that receive an application of tread end cement for the month.

(ii) For a green tire spraying operation that uses water-based inside green tire sprays, T_o equals the number of green tires that receive an application of water-based inside green tire spray for the month.

(iii) For a green tire spraying operation that uses water-based outside green tire sprays, T_o equals the number of green tires that receive an application of water-based outside green tire spray for the month.

(4) Calculate the mass of VOC used per tire cemented or sprayed at the affected facility for the month (G):

$$G = \frac{M_O}{T_O}$$

(5) Calculate the mass of VOC emitted per tire cemented or sprayed at the affected facility for the month (N):

$$N = G$$

(e) For each bead cementing operation that does not use a VOC emission reduction system, the owner or operator shall use the following procedure to determine compliance with the g/bead limit specified under § 60.542(a)(4).

(1) Determine the density and weight fraction VOC as specified under paragraph (c)(1) of this section.

(2) Calculate the total mass of VOC used at the affected facility for the month (M_o) as specified under paragraph (c)(2) of this section.

(3) Determine the number of beads cemented at the affected facility during the month (B_o) using production records; B_o equals the number of beads that receive an application of cement for the month.

(4) Calculate the mass of VOC used per bead cemented at the affected facility for the month (G_b):

$$G_b = \frac{M_O}{B_O}$$

(5) Calculate the mass of VOC emitted per bead cemented at the affected facility for the month (N_b):

$$N_b = G_b$$

(f) For each tread end cementing operation and each bead cementing operation that use a VOC emission reduction system with a control device that destroys VOC (e.g., incinerator), the owner or operator shall use the following procedure to determine compliance with the emission limit specified under § 60.542(a) (3) and (4).

(1) Calculate the mass of VOC used per tire cemented at the affected facility for the month (G), as specified under paragraphs (d) (1) through (4) of this section, or mass of VOC used per bead cemented at the affected facility for the month (G_b), as specified under paragraphs (e) (1) through (4) of this section.

(2) Calculate the mass of VOC emitted per tire cemented at the affected facility for the month (N) or mass of VOC emitted per bead cemented for the affected facility for the month (N_b):

$$N = G\,(1-R)$$

$$N_b = G_b\,(1-R)$$

For the initial performance test, the overall reduction efficiency (R) shall be determined as prescribed under paragraphs (f)(2) (i) through (iii) of this section. In subsequent months, the owner or operator may use the most recently determined overall reduction efficiency (R) for the performance test except during conditions described under paragraph (b)(2) of this section.

(i) The owner or operator of an affected facility shall construct a temporary enclosure around the application and drying areas during the performance test for the purpose of capturing fugitive VOC emissions. The enclosure must be maintained at a negative pressure to ensure that all evaporated VOC are measurable. Determine the fraction (F_c) of total VOC used at the affected facility that enters the control device:

$$F_c = \frac{\sum_{i=1}^{m} C_{b_i} Q_{b_i}}{\sum_{i=1}^{m} C_{b_i} Q_{b_i} + \sum_{i=1}^{n} C_{f_i} Q_{f_i}}$$

where: "m" is the number of vents from the affected facility to the control device, and "n" is the number of vents from the affected facility to the atmosphere and from the temporary enclosure.

(ii) Determine the destruction efficiency of the control device (E) by using values of the volumetric flow rate of each of the gas streams and the VOC content (as carbon) of each of the gas streams in and out of the control device:

$$E = \frac{\sum_{i=1}^{m} C_{b_i} Q_{b_i} - \sum_{i=1}^{p} C_{a_i} Q_{a_i}}{\sum_{i=1}^{m} C_{b_i} Q_{b_i}}$$

where: "m" is the number of vents from the affected facility to the control device, and "p" is the number of vents after the control device.

(iii) Determine the overall reduction efficiency (R):

$$R = EF_c$$

(g) For each undertread cementing operation, each sidewall cementing operation, each green tire spraying operation where organic solvent-based sprays are used, each Michelin-A operation, each Michelin-B operation, and each Michelin-C-automatic operation that use a VOC emission reduction system with a control device that destroys VOC (e.g., incinerator), the owner or operator shall use the following procedure to determine compliance with the percent emission reduction requirement specified under § 60.542 (a) (1)(i), (2)(i), (6)(i), (7)(iii), (8)(i), (9)(i), and (10)(i).

(1) For the initial performance test, the overall reduction efficiency (R) shall be

determined as prescribed under paragraphs (f)(2) (i) through (iii) of this section. The performance test shall be repeated during conditions described under paragraph (b)(2) of this section. No monthly performance tests are required.

(h) For each tread and cementing operation and each bead cementing operation that uses a VOC emission reduction system with a control device that recovers VOC (e.g., carbon adsorber), the owner or operator shall use the following procedure to determine compliance with the emission limit specified under § 60.542(a) (3) and (4).

(1) Calculate the mass of VOC used per tire cemented at the affected facility for the month (G), as specified under paragraphs (d) (1) through (4) of this section, or mass of VOC used per bead cemented at the affected facility for the month (G_b), as specified under paragraphs (e) (1) through (4) of this section.

(2) Calculate the total mass of VOC recovered from the affected facility for the month (M_r):

$$M_r = L_r D_r$$

(3) Calculate the overall reduction efficiency for the VOC emission reduction system (R) for the month:

$$R = \frac{M_r}{M_o}$$

(4) Calculate the mass of VOC emitted per tire cemented at the affected facility for the month (N) or mass of VOC emitted per bead cemeted at the affected facility for the month (N_b):

$$N = G\ (1-R)$$

$$N_b = G_b\ (1-R)$$

(i) For each undertread cementing operation, each sidewall cemeting operation, each green tire spraying operation where organic solvent-based sprays are used, each Michelin-A operation, each Michelin-B operation, and each Michelin-C-automatic operation that use a VOC emission reduction system with a control device that recovers (VOC) (e.g., carbon adsorber), the owner or operator shall use the following procedure to determine compliance with the percent reduction requirement specified under § 60.542(a) (1)(i), (2)(i), (6)(i), (7)(iii), (8)(i), (9)(i), and (10)(i).

(1) Determine the density and weight fraction VOC as specified under paragraph (c)(1) of this section.

(2) Calculate the total mass of VOC used at the affected facility for the month (M_o) as described under paragraph (c)(2) of this section.

(3) Calculate the total mass of VOC recovered from the affected facility for the month (M_r) as described under paragraph (h)(2) of this section.

(4) Calculate the overall reduction efficiency for the VOC emission reduction system (R) for the month as described under paragraph (h)(3) of this section.

(j) Rather than seeking to demonstrate compliance with the provisions of § 60.542(a) (1)(i), (2)(i), (6)(i), (7)(iii), or (9)(i) using the performance test procedures described under paragraphs (g) and (i) of this section, and owner or operator of an undertread cementing operation, sidewall cementing operation, green tire spraying operation where organic solvent-based sprays are used, or Michelin-B operation that use a VOC emission reduction system may seek to demonstrate compliance by meeting the equipment design and performance specifications listed under paragraphs (j)(1), (2), and (4) through (6) or under paragraphs (j)(1) and (3) through (6) of this section, and by conducting a control device efficiency performance test to determine compliance as described under paragraph (j)(7) of this section. The owner or operator shall conduct this performance test of the control device efficiency no later than 180 days after initial startup of the affected facility, as specified under § 60.8(a). Meeting the capture system design and performance specifications, in conjunction with operating a 95 percent efficient control device, is an acceptable means of demonstrating compliance with the standard. Therefore, the requirement for the initial performance test on the enclosure, as specified under § 60.8(a), is waived. No monthly performance test are required.

(1) For each undertread cementing operation, each sidewall cementing operation, and each Michelin-B operation, the cement application and drying area shall be contained in an enclosure that meets the criteria specified under paragraphs (j) (2), (4), and (5) of this section; for each green tire spraying operation where organic solvent-based sprays are used, the spray application and drying area shall be contained in an enclosure that meets the criteria specified under paragraphs (j) (3), (4), and (5) of this section.

(2) The drying area shall be enclosed between the application area and the water bath or to the extent necessary to contain all tire components for at least 30 seconds after cement application, whichever distance is less.

(3) Sprayed green tires shall remain in the enclosure for a minimum of 30 seconds after spray application.

(4) A minimum face velocity of 100 feet per minute shall be maintained continuously through each permanent opening into the enclosure when all temporary enclosure openings are closed. The cross-sectional area of each permanent opening shall be divided into at least 12 equal areas, and a velocity measurement shall be performed at the centroid of each equal area with an anemometer or similar velocity monitoring device; the face velocity of each permanent opening is the average value of the velocity measurements taken. The monitoring device shall be calibrated and operated according to the manufacturer's instructions.

Temporary enclosure openings shall remain closed at all times except when worker access is necessary.

(5) The total area of all permanent openings into the enclosure shall not exceed the area that would be necessary to maintain the VOC concentration of the exhaust gas stream at 25 percent of the lower explosive limit (LEL) under the following conditions:

(i) The facility is operating at the maximum solvent use rate;

(ii) The face velocity through each permanent opening is 100 feet per minute; and

(iii) All temporary openings are closed.

(6) All captured VOC are ducted to a VOC emission control device that is operated on a continuous basis and that achieves at least a 95 percent destruction or recovery efficiency.

(7) The efficiency of the control device (E) for the initial performance test is determined by using values of the volumetric flow rate of each of the gas streams and the VOC content (as carbon) of each of the gas streams in and out of the control device as described under paragraph (f)(2)(ii) of this section. The control device efficiency shall be redetermined during conditions specified under paragraph (b)(3) of this section.

(k) Each owner or operator of an affected facility who initially elected to be subject to the applicable percent

emission reduction requirement specified under § 60.542(a)(1)(i), (2)(i), (6)(i), (7)(iii), (8)(i), (9)(i), or (10)(i) and who later seeks to comply with the applicable total (uncontrolled) monthly VOC use limit specified under § 60.542(a)(1)(ii), (2)(ii), (6)(ii), (7)(iv), (8)(ii), (9)(ii), or (10)(ii) shall demonstrate, using the procedures described under paragraph (c) of this section, that the total VOC use at the affected facility has not exceeded the applicable total (uncontrolled) monthly VOC use limit during each of the last 6 months of operation. The owner or operator shall be subject to the applicable percent emission reduction requirement until the conditions of this paragraph and § 60.546(h) are satisfied.

(l) In determining compliance for each undertread cementing operation, each sidewall cementing operation, each green tire spraying operation, each Michelin-A operation, each Michelin-B operation, and each Michelin-C-automatic operation, the owner or operator shall include all the VOC used, recovered, or destroyed from cements and organic solvent-based green tire sprays including those cements or sprays used for tires other than those defined under § 60.541(a).

(m) In determining compliance for each tread end cementing operation, each bead cementing operation, and each green tire spraying operation, the owner or operator shall include only those tires defined under § 60.541(a) when determining T_o and B_o.

§ 60.544 Monitoring of operations.

(a) Each owner or operator subject to the provisions of this subpart shall install, calibrate, maintain, and operate according to manufacturer's specifications the following equipment, unless alternative monitoring procedures or requirements are approved for that facility by the Administrator:

(1) Where a thermal incinerator is used for VOC emission reduction, a temperature monitoring device equipped with a continuous recorder for the temperature of the gas stream in the combustion zone of the incinerator. The temperature monitoring device shall have an accuracy of 1 percent of the temperature being measured in °C or ±0.5 °C, whichever is greater.

(2) Where a catalytic incinerator is used for VOC emission reduction, temperatrue monitoring devices, each equipped with a continuous recorder, for the temperature in the gas stream immediately before and after the catalyst bed of the incinerator. The temperature monitoring devices shall have an accuracy of 1 percent of the temperature being measured in °C or ±0.5 °C, whichever is greater.

(3) For an undertread cementing operation, sidewall cementing operation, green tire spraying operation where organic solvent-based sprays are used, or Michelin-B operation where a carbon adsorber is used to meet the performance requirements specified under § 60.543(j)(6), an organics monitoring device used to indicate the concentration level of organic compounds based on a detection principle such as infrared, photoionization, or thermal conductivity, equipped with a continous recorder, for the outlet of the carbon bed.

(b) An owner or operator of an undertread cementing operation, sidewall cementing operation, green tire spraying operation where organic solvent-based sprays are used, or Michelin-B operation where a VOC recovery device other than a carbon adsorber is used to meet the performance requirements specified under § 60.543(j)(6), shall provide to the Administrator information describing the operation of the control device and the process parameter(s) which would indicate proper operation and maintenance of the device. The Administrator may request further information and will specify appropriate monitoring procedures or requirements.

(Approved by the Office of Management and Budget under control number 2060–0156.)

§ 60.545 Recordkeeping requirements.

(a) Each owner or operator of an affected facility that uses a thermal incinerator shall maintain continuous records of the temperature of the gas stream in the combustion zone of the incinerator and records of all 3–hour periods of operation for which the average temperature of the gas stream in the combustion zone was more than 28 °C (50 °F) below the combustion zone temperature measured during the most recent determination of the destruction efficiency of the thermal incinerator that demonstrated that the affected facility was in compliance.

(b) Each owner or operator of an affected facility that uses a catalytic incinerator shall maintain continuous records of the temperature of the gas stream both upstream and downstream of the catalyst bed of the incinerator, records of all 3-hour periods of operation for which the average temperature measured before the catalyst bed is more than 28 °C below the gas stream temperature measured before the catalyst bed during the most recent determination of destruction efficiency of the catalytic incinerator that demonstrated that the affected facility was in compliance, and records of all 3-hour periods for which the average temperature difference across the catalyst bed is less than 80 percent of the temperature difference measured during the most recent determination of the destruction efficiency of the catalytic incinerator that demonstrated that the affected facility was in compliance.

(c) Each owner or operator of an undertread cementing operation, sidewall cementing operation, green tire spraying operation where organic solvent-based sprays are used, or Michelin-B operation that uses a carbon adsorber to meet the requirements specified under § 60.543(j)(6) shall maintain continuous records of all 3-hour periods of operation during which the average VOC concentration level or reading of organics in the exhaust gases is more than 20 percent greater than the exhaust gas concentration level or reading measured by the organics monitoring device during the most recent determination of the recovery efficiency of the carbon adsorber that demonstrated that the affected facility was in compliance.

(d) Each owner or operator of an undertread cementing operation, sidewall cementing operation, green tires spraying operation where organic solvent-based sprays are used, Michelin-A operation, Michelin-B operation, or Michelin-C-automatic operation who seeks to comply with a specified kg/mo uncontrolled VOC use limit shall maintain records of monthly VOC use and the number of days in each compliance period.

(e) Each owner or operator that is required to conduct monthly performance tests, as specified under § 60.543(b)(1), shall maintain records of the results of all monthly tests.

(Approved by the Office of Management and Budget under control number 2060–0156.)

§ 60.546 Reporting requirements.

(a) Each owner or operator subject to the provisions of this subpart, at the time of notification of the anticipated initial startup of an affected facility pursuant to § 60.7(a)(2), shall provide a written report to the Administrator declaring for each undertread cementing operation, each sidewall cementing operation, each green tires spraying operation where organic solvent-based spray are used, each Michelin-A operation, each Michelin-B operation, and each Michelin-C automatic operation the emission limit he intends to comply with and the compliance method (where § 60.543(j) is applicable) to be employed.

(b) Each owner or operator subject to the provisions of this subpart, at the time of notification of the anticipated initial startup of an affected facility pursuant to § 60.7(a)(2), shall specify the monthly schedule (each calendar month or a 4-4-5-week schedule) to be used in making compliance determinations.

(c) Each owner or operator subject to the provisions of this subpart shall report the results of all initial performance tests, as required under § 60.8(a), and the results of the performance test required under § 60.543 (b)(2) and (b)(3). The following data shall be included in the report for each of the above performance tests:

(1) For each affected facility for which the owner or operator seeks to comply with a kg/mo uncontrolled VOC use limit specified under § 60.542(a): The monthly mass of VOC used (M_o) and the number days in the compliance period (T_d).

(2) For each affected facility that seeks to comply with a g/tire or g/bead limit specified under § 60.542(a) without the use of a VOC emission reduction system: the mass of VOC used (M_o), the number of tires cementd or sprayed (T_d), the mass of VOC emitted per tire cemented or sprayed (N), the number of beads cemeted (B_o), and the mass of VOC emitted per bead cemented (N_b).

(3) For each affected facility that uses a VOC emission reduction system with a control device that destroys VOC (e.g., incinerator) to comply with a g/tire or g/bead limit specified under § 60.542(a): The mass of VOC used (M_o), the number of tires cemented or sprayed (T_o), the mass of VOC emitted per tire cemented or sprayed (N), the number of beads cemented (B_o), the mass of VOC emitted per bead cemented (N_b), the mass of VOC used per tire cemented or sprayed (G), the mass of VOC per bead cemented (G_b), the emission control device efficiency (E), the capture system efficiency (F_c), the face velocity through each permanent opening for the capture system with the temporary openings closed, and the overall system emission reduction (R).

(4) For each affected facility that uses a VOC emission reduction system with a control device that destroys VOC (e.g., incinerator) to comply with a percent emission reduction requirement specified under § 60.542(a): The emission control device efficiency (E), the capture system efficiency (F_c), the face velocity through each permanent opening in the capture system with the temporary openings closed, and the overall system emission reduction (R).

(5) For each affected facility that uses a carbon adsorber to comply with a g/tire or g/bead limit specified under § 60.542(a): The mass of VOC used (M_o), the number of tires cemented or sprayed (T_o), the mass of VOC used per tire cemented or sprayed (G), the number of beads cemented (B_o), the mass of VOC used per bead (G_b), the mass of VOC recovered (M_r), the overall system emission reduction (R), the mass of VOC emitted per tire cemented or sprayed (N), and the mass of VOC emitted per bead cemented (N_b).

(6) For each affected facility that uses a VOC emission reduction system with a control device that recovers VOC (e.g., carbon adsorber) to comply with a percent emission reduction requirement specified under § 60.542(a): The mass of VOC used (M_o), the mass of VOC recovered (M_r), and the overall system emission reduction (R).

(d) Each owner or operator of an undertread cementing operation, sidewall cementing operation, green tire spraying operation where organic solvent-based sprays are used, or Michelin-B operation who seeks to comply with the requirements described under § 60.543(j) shall include in the initial compliance report a statement specifying, in detail, how each of the equipment design and performance specifications has been met. The initial compliance report also shall include the following data: The emission control device efficiency (E), the face velocity through each permanent enclosure opening with all temporary enclosure openings closed, the total area of all permanent enclosure openings, the total area of all temporary enclosure openings, the maximum solvent use rate (kg/hr), the type(s) of VOC used, the lower explosive limit (LEL) for each VOC used, and the length of time each component is enclosed after application of cement or spray material.

(e) Each owner or operator of an affected facility shall include the following data measured by the required monitoring device(s), as applicable, in the report for each performance test specified under paragraph (c) of this section.

(1) The average combustion temperature measured at least every 15 minutes and averaged over the performance test period of incinerator destruction efficiency for each thermal incinerator.

(2) The average temperature before and after the catalyst bed measured at least every 15 minutes and averaged over the performance test period of incinerator destruction efficiency for each catalytic incinerator.

(3) The concentration level or reading indicated by the organics monitoring device at the outlet of the adsorber, measured at least every 15 minutes and averaged over the performance test period of carbon adsorber recovery efficiency while the vent stream is normally routed and constituted.

(4) The appropriate data to be specified by the Administrator where a VOC recovery device other than a carbon adsorber is used.

(f) Once every 6 months each owner or operator subject to the provisions of §60.545 shall report, as applicable:

(1) Each monthly average VOC emission rate that exceeds the g/tire or g/bead limit specified under §60.542(a), as applicable for the affected facility.

(2) Each monthly average VOC use rate that exceeds the kg/mo VOC use limit specified under §60.542(a), as applicable for the affected facility.

(3) Each monthly average VOC emission reduction efficiency for a VOC recovery device (e.g., carbon adsorber) less than the percent efficiency limit specified under §60.542(a), as applicable for the affected facility.

(4) Each 3-hour period of operation for which the average temperature of the gas stream in the combustion zone of a thermal incinerator, as measured by the temperature monitoring device, is more than 28°C (50°F) below the combustion zone temperature measured during the most recent determination of the destruction efficiency of the thermal incinerator that demonstrated that the affected facility was in compliance.

(5) Each 3-hour period of operation for which the average temperature of the gas stream immediately before the catalyst bed of a catalytic incinerator, as measured by the temperature monitoring device, is more than 28°C (50°F) below the gas stream temperature measured before the catalyst bed during the most recent determination of the destruction efficiency of the catalyst incinerator that demonstrated that the affected facility was in compliance, and any 3-hour period for which the average temperature difference across the catalyst bed (i.e., the difference between the temperatures of the gas stream immediately before and after the catalyst bed), as measured by the temperature monitoring device, is less than 80 percent of the temperature difference measured during the most recent determination of the destruction efficiency of the catalytic incinerator that demonstrated that the affected facility was in compliance.

(6) Each 3-hour period of operation during which the average concentration level or reading of VOC's in the exhaust gases from a carbon adsorber is more than 20 percent greater than the exhaust gas concentration level or reading measured by the organics monitoring

device during the most recent determination of the recovery efficiency of the carbon adsorber that demonstrated that the affected facility was in compliance.

(g) The requirements for semiannual reports remain in force until and unless EPA, in delegating enforcement authority to a State under Section 111(c) of the Act, approves reporting requirements or an alternative means of compliance surveillance adopted by such State. In that event, affected facilities within the State will be relieved of the obligation to comply with these requirements, provided that they comply with the requirements established by the State.

(h) Each owner or operator of an affected facility who initially elected to be subject to the applicable percent emission reduction requirement specified under § 60.542(a) and who later seeks to comply with the applicable total (uncontrolled) monthly VOC use limit specified under § 60.542(a) and who has satisfied the provisions specified under § 60.543(k) shall furnish the Administrator written notification no less than 30 days in advance of the date when he intends to be subject to the applicable VOC use limit instead of the applicable percent emission reduction requirement.

(Approved by the Office of Management and Budget under control number 2060–0156.)

§ 60.547 Test methods and procedures.

(a) The test methods in Appendix A to this part, except as provided under § 60.8(b), shall be used to determine compliance with § 60.542(a) as follows:

(1) Method 24 or formulation data for the determination of the VOC content of cements or green tire spray materials. In the event of dispute, Method 24 shall be the reference method. For Method 24, the cement or green tire spray sample shall be a 1-liter sample collected in a 1-liter container at a point where the sample will be representative of the material as applied in the affected facility.

(2) Method 25 as the reference method for the determination of the VOC concentrations in each stack, both entering and leaving an emission control device. The owner or operator shall notify the Administrator 30 days in advance of any test by Method 25. For Method 25, the sampling time for each of three runs shall be at least 1 hour. Method 1 shall be used to select the sampling site, and the sampling point shall be the centroid of the duct or at a point no closer to the walls than 1 meter. The minimum sample volume shall be 0.003 dry standard cubic meter (dscm) except that shorter sampling times or smaller volumes, when necessitated by process variables or other factors, may be approved by the Administrator.

(3) Method 2, 2A, 2C, or 2D, as appropriate, as the reference method for determination of the flow rate of the stack gas. The measurement site shall be the same as for the Method 25 sampling. A velocity traverse shall be made once per run within the hour that the Method 25 sample is taken.

(4) Method 4 for determination of stack gas moisture.

§ 60.548 Delegation of authority.

(a) In delegating implementation and enforcement authority to a State under section 111(c) of the Act, the authorities contained in paragraph (b) of this section shall be retained by the Administrator and not transferred to a State.

(b) Authority which will not be delegated to States: Section 60.543(c)(2)(ii)(B).

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Part III

Nuclear Regulatory Commission

10 CFR Part 50

Nuclear Power Plant Standardization; Policy Statement

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Nuclear Power Plant Standardization

AGENCY: Nuclear Regulatory Commission.

ACTION: Policy statement.

SUMMARY: The Nuclear Regulatory Commission is issuing a revised policy statement on the standardization of nuclear power plant designs. The policy statement encourages the use of standard plant designs and provides information concerning the certification of plant designs that are essentially complete in scope and level of detail. The intent of these actions are to improve the licensing process and to reduce the complexity and uncertainty in the regulatory process for standardized plants.

DATE: Effective on September 15, 1987. Workshop to be held October 20, 1987.

ADDRESSES: Submit comments to: The Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. A public workshop will be held on October 20, 1987, in the Cabinet Room of the Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, Maryland.

FOR FURTHER INFORMATION CONTACT: Jerry N. Wilson, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–4727.

SUPPLEMENTARY INFORMATION:

Workshop

The NRC staff will conduct a workshop to inform the public of staff efforts to develop an implementing rulemaking on standardization and to provide a forum for public discussion of the revised policy statement and relevant issues that need to be addressed in the rulemaking package. The workshop will be held on October 20, 1987 at the Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, Maryland 20814 in the Cabinet Room. The workshop will start at 9:00 a.m. The NRC staff will present an overview of the revised policy statement and the proposed rulemaking package at the workshop. Those members of the public who wish to make a presentation at the workshop should notify the contact listed above so that they can be added to the agenda. Anyone who wishes to and further comments to the record or who cannot attend the workshop should send written comments to the Secretary of the Commission no later than October 30, 1987.

Background

The Nuclear Regulatory Commission believes that standardization of nuclear power plant designs is an important initiative that can significantly enhance the safety, reliability and availability of nuclear plants. The Commission intends to improve the licensing process for standardized nuclear power plants and to reduce complexity and uncertainty in the regulatory process. Appendices M, N and O to Title 10, Part 50 of the Code of Federal Regulations (10 CFR Part 50) establish various options and procedures for the approval of standardized plant designs. A provision for Commission approval of a reference design in a rulemaking proceeding is included in Appendix O. This has been termed Reference System Design Certification and is the focus of the Commission's standardization policy. This policy statement revises the Standardization Policy Statement of 1978 (August 31, 1978; 43 FR 38954).

The purpose of this policy statement is to encourage standardization and to provide information concerning the Commission's efforts to develop a regulatory framework for the certification of plant designs which:

- Are essentially complete in both scope and level of detail;
- Cover plant design, construction, and quality assurance programs;
- Satisfy regulatory requirements before construction begins; and
- Can be referenced for individual plant applications.

Use of certified reference designs in future license applications should enhance plant safety, increase the efficiency of the NRC review process, and reduce complexity and uncertainty in the regulatory process. A regulatory framework which provides for certification of reference designs by means of rulemaking will alleviate the need to reconsider design issues in individual licensing proceedings on future license applications which reference the certified designs. Areas included within the scope of the reference system design certification rulemaking would require no further review by the staff, the Advisory Committee on Reactor Safeguards (ACRS), or the hearing boards.

The Commission's primary objectives in issuing a policy statement on nuclear power plant standardization are threefold:

- To encourage the use of standard plant designs in future license applications in order to enhance plant safety, improve the efficiency and reduce the complexity and uncertainty of the regulatory process;
- To identify the issues that are important to the implementation of standardization and to state the Commission's intent to develop proposed rules to address these issues more fully; and
- To express the Commission's intent to make resources available on a priority basis to facilitate the reference system design certification process for essentially complete nuclear power plant designs and for the licensing reviews of applications referencing these certified designs.

Experience has shown that the "one-of-a-kind" approach to reactor design, construction, and operation has led to an operating reactor population of great variability and diversity, even among reactors from the same vendor. This variability is introduced when utilities and designers incorporate customs features into their designs; when varying construction practices are used; and when plants are operated and maintained by different organizations. This variability has introduced significant differences in the licensing and operation of these plants, in the transfer of experience from one reactor to another, in technical specifications, in operating procedures, and in backfitting considerations.

The Commission believes that the use of certified standardized designs can benefit the public health and safety by concentrating resources on specific design approaches without stifling ingenuity; by stimulating standardized programs of construction practice, quality assurance, and personnel training; and by fostering more effective maintenance and improved operation. Standardization should result in significant economies of scale in learning and sharing operating experience, in maintaining qualified vendor support, and in maintaining an adequate inventory of long lead-time, high cost spare parts that can be shared by a number of units. These concepts are embodied in foreign experience with the standardization of nuclear power plant design, contruction, and operation. Standardization is expected to further improve the safety performance of future plants. Standardization will allow for a more expeditious and efficient review process and a more thorough understanding of the designs by the industry and the NRC staff. In strongly endorsing the concept of standardization, the Commission acknowledges that there can be drawbacks. The most significant is that specific problems may potentially affect

a large number of reactors. However, on balance, the Commission believes that the enhanced safety of reactor operation should far outweigh any disadvantages.

Commission policy for plant safety is articulated in its Policy Statement on Safety Goals (August 4, 1986; 51 FR 28044, August 21, 1986; 51 FR 30028). The Standardization Policy also is consistent with the standardized plant provisions of the Commission's complementary Severe Accident Policy Statement (August 8, 1985; 50 FR 32138). Many of the desirable safety characteristics listed in the Advanced Reactor Policy Statement (July 8, 1986; 51 FR 24643) are equally desirable for evolutionary light water reactor standardized designs.

The Commission believes that Congress should promote nuclear safety by pursuing legislative initiatives to further encourage the standardization concept. The proposed Nuclear Power Plant Standardization and Licensing Act of 1987, which the Commission forwarded to Congress in January of this year, includes the following three legislative proposals:

- Issuance of a combined construction permit and operating license;
- Issuance of a site permit prior to submission of an application for a construction permit or combined construction permit and operating license;
- Issuance of a facility design approval (Reference System Design Certification) prior to submission of an application for a construction permit or combined construction permit and operating license.

The Commission believes that these legislative changes are important to achieving the full benefits of standardization. The one-step licensing process would give licensees greater assurance that if the facility is constructed in accordance with the terms of the application/permit, it will be permitted to operate once construction is complete. The issuance of site permits and facility design approvals, in advance of specific applications for their use, would allow subsequent facility applications to reference the permits and/or approvals without further regulatory action unless there is a substantial reason not to do so. This process would also facilitate early identification and resolution of site and design issues after affording an opportunity for public participation.

The Commission continues to believe that nuclear standardization and licensing legislation should be enacted. The Commission recognizes, however, that much of its legislative proposal with respect to standardization could be accomplished under its existing statutory authority. In addition, there is a need for regulations to implement the Commission's standardization policy more effectively. For these reasons, the Commission is developing proposed regulations that will address licensing reform and standardization. With regard to standardization, the proposed rules will provide a regulatory framework for Commission certification of standard designs by rulemaking, as set forth in paragraph 7 of Appendix O to 10 CFR Part 50. The proposed rules will address the following subjects: Relationship of the new regulatory framework to the existing provisions of Appendices M, N, and O to Part 50; filing requirements; contents of applications; design certification and renewal fees; design certification rulemaking procedures; referral of applications to the Advisory Committee on Reactor Safeguards (ACRS); duration and renewal of design certifications; changes to certified standard designs; and provisions for plant specific variances. The Commission's general approach to standard design certification under its existing rules is outlined in this policy statement. The issues important to execution of the Commission's standardization policy will be addressed more fully in the proposed rules.

Statement of Policy on Nuclear Power Plant Standardization

The purpose of this standardization policy is to provide the regulatory framework for reference system design certification of nuclear power plant designs which are essentially complete in both scope and level of detail; cover plant design, construction, and quality assurance programs; satisfy regulatory requirements before construction begins; and can be referenced in individual plant applications.

The reference system designs, at least initially, are expected to be evolutions of existing proven LWR designs. Detailed information consisting of design and procurement specifications, performance requirements, and acceptance and inspection requirements will be substituted for name plate data. For those systems, structures and component designs which represent significant deviations from previously-approved LWR designs, prototype testing and/or empirical information may also be required. Advanced design concepts should be developed according to the guidelines of the Advanced Reactor Policy Statement. When an advanced design concept is sufficiently mature, e.g., through comprehensive, prototypical testing, an application for design certification could be made.

In the reference system design certification process, the final decision will be made by the Commission itself following review by the ACRS, the issuance of a final design approval by the staff, and the completion of a rule-making proceeding. The reference system concept means that an entire nuclear power plant design or a major portion of the design is acceptable for incorporation by reference in individual license applications. The design certification concept focuses on the certification of a reference system design through rulemaking, as provided for by Appendix 0 to 10 CFR Part 50. The rules being developed to implement this policy will address the criteria and procedures for issuance and renewal of design certifications, as well as the duration of the certification and renewals. The certified design must be used and relied upon by the staff, the ACRS, the hearing boards and the Commission in their consideration of applications that reference the certified design. The issue of relitigation of issues considered and decided in the design certification rulemaking will be addressed in the proposed rules.

The Commission believes that several benefits will be realized in this process which will not only enhance safety, but should also contribute added stability and predictability to the regulatory process. The rulemaking will certify the acceptability of the design. The certified design will be referenced in the application for a Construction Permit or Operating License. The rulemaking to obtain the design certification will cover the criteria necessary for design and construction of a plant; the quality assurance program; and whatever tests, analyses, and inspection criteria are necessary to assure that the plant is built within the certified design specifications.

The Commission expects to implement the following policies with regard to design certification review. An applicant for a design certification must first obtain a Final Design Approval (FDA) pursuant to Appendix 0 to Part 50. If the applicant intends to seek a design certification, the FDA application must indicate that intent. As set forth in Appendix 0, the FDA application must include information on scope and design detail which is essentially equivalent to that required by 10 CFR 50.34(b), as well as any other information customarily required by the staff to perform a Final Safety Analysis Report review. In addition, it must address the following four licensing criteria for new plant designs set forth in the Commission's Severe Accident Policy Statement:

(1) Demonstration of compliance with the requirements of the current Commission regulations, including the Three Mile Island requirements for new plants as reflected in the construction permit rule, 10 CFR 50.34(f);

(2) Demonstration of technical resolution of all applicable Unresolved Safety Issues and the medium- and high-priority Generic Safety Issues, including a special focus on ensuring the reliability of decay heat removal systems and the reliability of both AC and DC electrical supply systems;

(3) Completion of a probabilistic risk assessment (PRA) and consideration of the severe accident vulnerabilities that the PRA exposes, along with the insights that it may add to the assurance that there is no undue risk to public health and safety; and

(4) Completion of staff review of the design with a conclusion of safety acceptability using an approach that stresses deterministic engineering analysis and judgment complemented by PRA.

The design certification application should also propose, for staff review and approval, the tests, analyses, inspections and acceptance criteria that are considered necessary to provide reasonable assurance that a plant which references the certified design is built and operated within the specifications of the final design. Additional information beyond that required for an FDA may be necessary to support the design certification rulemaking. Further detailed guidance in this area will be developed by the staff, if necessary, as a result of experience with the first few FDA/design certification reviews.

Features of the design which can only be determined when a specific site is chosen generally are not included in the design approval or certification. Rather, the designer defines a set of site enveloping parameters (seismic events, rainfall, flood, etc.) which are used in the design of the plant. These parameters usually are selected to envelop a large portion of the potential sites in the U.S. Once the design is certified by the Commission, conformance of actual sites with the established site envelope must be demonstrated by the applicant and verified by the staff at the time an actual plant application is reviewed. Other features of the design which are dependent on the site (*i.e.*, cooling water supply, emergency preparedness plans, etc.) are also reviewed for acceptability and compatibility with the pre-approved/certified design at the time of an actual application.

Currently, NRC-initiated changes to the design certification rule will not be required unless the Commission determines that these modifications are in accord with the backfit rule specified in 10 CFR 50.109. The subject of modifications to be required after the design certification is granted, as well as amendments at the request of the design certification holder and variances at the request of a utility, will be addressed in the proposed rules. In developing those rules, the Commission will consider the appropriateness of employing the backfitting standard set forth in the proposed standardization and licensing reform legislation. The Commission expects that backfits to the design certification rule would be applied uniformly to all plants referencing the certified design. Similarly, amendments to the design certification rule initiated by the holder of the design certification would also be applied uniformly to all plants referencing the standard design. In addition, procedures will be developed to allow for plant-specific variances in limited circumstances at the request of the facility licensee.

All applications for licenses and approvals for standard designs are at present subject to the fees and the fee recovery rates identified in 10 CFR Part 170. The Commission has authorized a revision of 10 CFR Part 170 to include a new provision for the reference system design certification process. This revision would permit the phased recovery of design certification costs through collection of fees from the holder of the design certification, as the design is referenced. If the design is not referenced or if all the costs are not recovered within ten years, the holder of the design certification will be responsible for any amounts still due at the end of the ten year period.

Although the Commission strongly encourages the use of certified designs for the entire plant in all future license applications, the regulations also allow for other standardization options including the duplicate plant, the replicate plant, and the manufacturing license concepts. While these options may be used in the interim, they are discouraged for the longer term. The Commission also recognizes that review, approval and certification of major portions of complete plants may be useful in the interim. However, applications for essentially complete designs are preferred and will be given priority in allocation of resources to support review and approval.

Dated at Washington, DC, this 9th day of September, 1987.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 87-21205 Filed 9-14-87; 8:45 am]

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federal register

Tuesday
September 15, 1987

Part IV

Department of Transportation

Office of the Secretary
Research and Special Programs Administration

14 CFR Parts 217 and 241
Aviation Economic Regulations; Report of Traffic and Capacity Statistics; Extension of Comment Period

Part IX

Department of Transportation

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Research and Special Programs Administration

14 CFR Parts 217 and 241

[Docket 44999; Notice No. 87-13a]

Aviation Economic Regulations; Report of Traffic and Capacity Statistics; Part 217—Reporting Traffic and Capacity; Statistics B Foreign Air Carriers in Civilian Scheduled, Charter, and Nonscheduled Services; Part 241—Uniform System of Accounts and Reports For Large Certificated Air Carriers

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Extension of comment period.

SUMMARY: The Department grants a request to extend the comment period on regulations it has proposed concerning the collection of traffic and capacity data on a market and segment basis from large U.S. and foreign air carriers. This Notice extends the comment period on the proposed rule, originally set as September 14, 1987, until October 14, 1987.

DATE: Comments on the proposed rule must be received on or before October 14, 1987.

ADDRESS: Comments should be directed to the Docket Clerk, Room 4107, Office of the Secretary, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Donald W. Bright or Richard J. King, Office of Aviation Information Management, DAI-1, 400 Seventh Street, SW., Washington, DC, 20590, (202) 366-4384 or (202) 366-4375, respectively.

SUPPLEMENTARY INFORMATION: In a notice of proposed rulemaking (52 FR 26498, July 15, 1987) the Department proposed amendments to its regulations for collecting traffic and capacity data from U.S. and foreign air carriers. The proposed regulations would replace the collection of U.S. and foreign air carrier charter data, collected on Form 217, with the Form 41 Schedule T-100 for U.S. air carriers and Form 41 Schedule T-100(f) for foreign air carriers. The proposal would eliminate the collection of ER-586 Service Segment Data (SSD) from U.S. air carriers. Foreign air carriers would also file scheduled service data for the first time. The Department originally set September 14, 1987 as the date for filing comments on the proposed regulations.

In a joint motion dated September 8, 1987, Japan Air Lines Co., Ltd. and Singapore Airlines, Ltd. (the Parties) requested a thirty-day extension of time in which comments in response to the Department's Notice No. 87-13 may be filed. Nippon Cargo Airlines Co., Ltd. also filed in support of the motion.

The Parties considered the proposed regulations to be extremely complex, so complex that the Department held a public briefing on August 5, 1987 to explain its proposal, and issued supplementary explanatory data to further illustrate the reporting proposal. The Parties also pointed to the need for detailed consultations, during traditional vacation periods, between senior management officials and data processing personnel. A thirty-day delay in submitting comments would permit a more thorough and meaningful response.

The request for extension of time is granted. This rulemaking proposes to revise the data collection procedures affecting the air transport industry. As a result, it is important to provide the industry with adequate time to respond to the complexities of the proposed rulemaking. Therefore, the comment period is extended until October 14, 1987 to allow all parties additional time to offer substantive comments.

Accordingly, pursuant to 49 CFR 5.25 and under authority delegated to the Assistant General Counsel for Regulations and Enforcement in 14 CFR 385.20, I find that Parties have a substantive interest in the proposed rule and have shown good cause for the extension and that the extension is in the public interest. Therefore, the request of the Parties for an extension of time to file comments in Docket 44999 is granted. Comments are now due October 14, 1987.

Issued in Washington, DC, on September 11, 1987.

M. Cynthia Douglass,

Administrator, Research and Special Programs Administration, DOT.

[FR Doc. 87-21449 Filed 9-14-87; 11:21 am]

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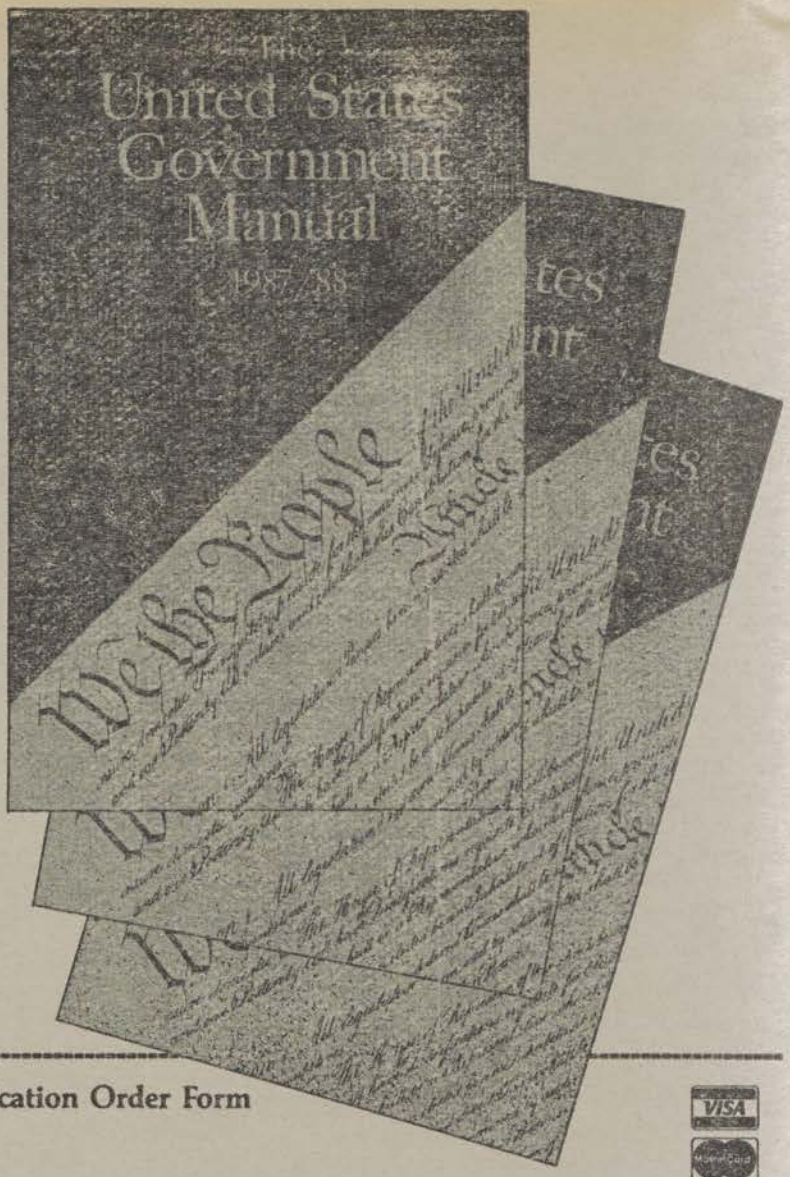

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